

THE EVOLUTION OF AN IDEA

Walton D. Dutcher, Jr.

In 1989, Eleanor Smith, a resident of Atlanta, GA and an advocate on issues of disability, along with Mary Johnson, an editor of Disability Rag, came up with the name "Concrete Change" and then in 1990 learned of and adopted the term "Visitability". In 1992 the Atlanta City Council adopted a Visitability ordinance "to provide that new single-family, duplexes and triplexes which are constructed with public funds, . . . with design features to provide accessibility and usability for physically disabled people."

In 1996, while serving as a member of the City of St. Petersburg's Committee to Advocate for Persons with Impairments (CAPI), I suggested that the City should adopt a Visitability ordinance. I was not aware, at that time, of Universal Design. The Visitability ordinance that CAPI proposed differed with all others in that it specified a minimum hallway width of 44 inches versus 36 for all others, including the Inclusive Home Design Act, H.R. 1408 introduced in the 111th Congress in March, 2009, [first introduced in 2002 as H.R. 5683].

The idea to amend the City's Visitability ordinance arose when the City received Neighborhood Stabilization Act funds and proposed a prototype design for new construction on City owned lots. The proposed design did not fully comply with the Visitability ordinance and I submitted my complaint to CAPI and the City's Housing Services Committee. As part of my complaint, I included the prototype design using "true" wall sizes as opposed to standard building materials and dimensioning typically incorporated in architectural plans as those submitted by the architectural firm contracted by the City. I also included a design similar in width and design concept using what I refer to as Life Style Design which offers an adaptable footprint. There was some resistance offered because the maneuvering room increased the size by 219 square feet, which, in terms of low income affordable housing, raises the price which is uncomfortable. My argument to this resistance was that there is a significant correlation of low income to disability and that the likelihood of having to modify the home in the future is high. Additionally, the income sector would need to avail themselves of public funding, such as CDBG loans, and that such modifications would be more expensive and not have the same "accessibility" value as providing the adaptable footprint at the outset. I also hold the opinion that using tax dollars to build a home wherein the design does not consider complete access by persons with disabilities is discriminatory.

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The objective of the proposed amendments was to include requirements that would provide the basic elements in terms of space and features which would establish an adaptable design not only for the initial occupants but for those in the future. The goal was to offer something more than the minimum requirements as set forth in the Visitability legislation.

As a designer and a person with a mobility disability that requires my use of a motorized wheelchair, I am all too familiar with what is needed to provide the maneuvering space and features that are functional. Using some legal background picked up during my work experience and my design experience, I attempted to craft the amendments that would incorporate the principles of Universal Design into a set of features and guidelines with specificity.

The first step was to introduce the proposed ordinance to City Council. This was done and the Council referred it to the Housing Services Committee. I anticipate that should they act on it, it will go forward to one or two committees and then, depending on a favorable recommendation, on to City Council.

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ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 17.5-30 OF THE CITY CODE TO CORRECT CERTAIN TECHNICAL ERRORS; TO INTRODUCE ADDITIONAL REQUIREMENTS TO ENHANCE AND CLARIFY THE APPLICABILITY OF CERTAIN DESIGN FEATURES IN NEW RESIDENTIAL CONSTRUCTION WHEREIN FINANCIAL ASSISTANCE IS PROVIDED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

Section 1. The City Council finds that:

(1) Standard housing construction does not take into consideration those features which facilitate aging-in-place and a functional, adaptable living environment access for persons with disabilities; and

(2) The population is aging and the Baby Boomers are seeking affordable and adaptable housing; and

(3) There is more than ample evidence that the numbers of persons with disabilities will increase; and

(4) The rate of parents coming to live with their children, called the "sandwich generation", is increasing because the cost of long-term care institutionalization continues to rise as does the lack of insurance coverage; and

(5) Persons with disabilities and their immediate families often experience difficulty in finding housing which would accommodate their needs; and

(6) It is reasonable to require certain basic design features which would make housing adaptable to persons with disabilities; and

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(7) The basic design features of this ordinance would make housing adaptable but would not result in a dwelling unit that is limited solely in its habitation by persons with disabilities or otherwise be functionally or esthetically objectionable to non-disabled persons; and

(8) Those persons who would qualify for the financial assistance available under this ordinance are low income who, statistically, have the highest rate of disabilities and the highest rate of obesity which, statistically, also have the highest rate of disability.

Section 2. Statement of Intent. The provisions of this ordinance are enacted to implement the City's policy that buildings for residential use, consisting of one to three units, which are constructed fully or partially with City funds will incorporate Universal Design Principles so as to achieve a set of design features that provide adaptability, as defined herein below, wherein the buildings will be able to be easily modified to accommodate any circumstance throughout the lifetime of the homeowner.

Section 3. Chapter 17.5 of the St. Petersburg City Code is amended to add Article III, Sections 17.5 30 - 46 to read as follows:

ARTICLE III. DESIGN REQUIREMENTS IN HOUSING CONSTRUCTED WITH PUBLIC FUNDS

Sec. 17.5-30 Applicability

(a) Except as otherwise provided in this section, all new construction of buildings, or additions to existing buildings, for residential use, consisting of one to three units, funded with any financial assistance from the City must comply with the requirements of this Article.

(b) The intent of this Article is to integrate the principles of Universal Design into a prescriptive set of features that will provide a built environment that is adaptable to any disabling, temporary or permanent, circumstance during the occupation of the home by the homeowner or a family member of same.

(c) "Financial assistance from the City" shall mean partial or full funding for new residential building construction, additions to existing residential buildings or acquisition of land where new residential buildings will be constructed where funding from or flowing through the City, including Community Development Block Grants (CDBG) and Neighborhood Stabilization Program (NSP) funds, or other considerations granted by the City, is committed or expended prior to the issuance of a permit for the construction of a residential structure by the City, including but not limited to:

- (1) A below market value sale or lease, or donation by the City of land or land intended to be cleared and used for residential purposes; or
- (2) A full or partial release of a lien or special assessment or waiver of interest on a lien or special assessment requested by the City.

(d) "Financial assistance from the City" shall not include:

- (1) Removal of liens or special assessments from property owned by the City;
- (2) Releases of liens or special assessments placed in error;
- (3) Releases of code enforcement liens unless the release of the code enforcement lien has been recommended or endorsed by the City to assist or induce the development of the property; or
- (4) Bond assistance or tax or fee waivers.

(e) "Universal Design" is embodied in a set of seven principles the intent of which are to guide "the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design"¹.

(f) "Adaptable" shall mean the inclusion of architectural design features which embody the principles of Universal Design in a residential dwelling wherein an occupant, present or future, can add or modify elements, without the need to

¹ http://www.design.ncsu.edu/cud/about_ud/about_ud.htm

structurally alter the dwelling unit, to accommodate the specific needs of the occupant where those needs are related to a disability.

(g) The references to "FBC" Sections are directed to Part A of Chapter 11 - Florida Accessibility Code for Building Construction of the Florida Building Code, as amended.

Sec. 17.5-31 Building Entrances

(a) Dwelling units covered hereunder shall be designed and constructed to have two no-step exterior entrances on accessible routes in compliance with FBC Section 11-4.3. The inclusion of a ramp or ramps shall not be required where grading is possible and the cost is not a significant burden to the applicant seeking financial assistance from the City. If grading is a significant cost burden because of site characteristics, then the applicant may submit a waiver as provided in Section 17-5.42. However, the dwelling unit must be designed in such a manner that a ramp or ramps could be constructed on an accessible route leading to the no-step entrances required in this subsection. The second such entrance is included for the safety of the occupants to provide an alternate means of egress in the event of an emergency where the level landing is similar to, but not the equivalent of an "area of rescue", as contemplated under FBC Section 11-4.3.11.

(b) These no-step entrances may be at the front, side, or back of a dwelling as long as it is served by an accessible route as defined in FBC Section 11-4.3.

(c) No-step entrance doors shall be 3'-0" by 6'-8" with a threshold in compliance with FBC Section 11-4.13.8. These doors shall have with a 5'-0" by 5'-0" level landing on the outside as shown in Fig. 25(a) identified as the "pull side", as referenced in FBC Sections 11-4.13.5 and 11-4.13.6. A 6'-0" sliding patio door, shall have a threshold² in in compliance with FBC Section 11-4.13.8 and a 8'-0" by 5'-0" level landing centered on the door.

² The wind load and hurricane resistant codes/standards enacted after Hurricane Andrew significantly impacted the ability to design a sill that would also comply with Ch. 11-4.13.8 of the Florida Building Code, as amended.

Sec. 17.5-32 Ground and Floor Surfaces

Ground and floor surfaces along accessible routes and in accessible rooms and spaces including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, slipresistant, and shall comply with FBC Section 11-4.5.

Sec. 17.5-33 Interior Doors

(a) Dwelling units covered hereunder shall be designed and constructed to provide 3'-0" interior doors throughout which are intended for user passage, except those serving closets or any form of storage areas less than 15 square feet in area.

(b) Lever handle hardware is required on all swinging doors as provided in FBC Section 11-4.13.9.

Sec. 17.5-34 Hallways, Passageways and Maneuvering Space within Dwelling Units

Dwelling units covered hereunder shall be designed and constructed so that all hallways and passageways on the first floor of the dwelling unit shall be a minimum of 3'-8" in width. All hallways and passageways shall be level with ramped or beveled changes at door thresholds, complying with FBC Sections 11-4.3.8, 11-4.5.2 and 11-4.5.3.

Sec. 17.5-35 Bedrooms

The main or Master bedroom shall be no less than 12'-0" by 13'-0", wall-to-wall. All others shall be no less than 10'-0" by 12'-0", wall-to-wall.

Sec. 17.5-36 Bathrooms

(a) A bathroom on the first floor of a dwelling unit shall be designed in such a manner to allow sufficient clear floor space for a circle having a diameter measuring 5'-0" (representing the turning radius of a mobility device). The door shall not swing into that circle. Additionally, the design shall provide sufficient space to provide a minimum of 3'-0" on the open side of the toilet, to facilitate side transfer, and an area of no less than 5'-4" by 7'-4" overall, which takes into consideration the 3'-0" side transfer provision plus the size of the toilet and space between the toilet and adjacent wall, and

from the back wall of the toilet forward to facilitate forward transfer and a 5'-0" diameter maneuvering circle. The design shall also provide a minimum space of 4'-0" by 5'-0" for a level entry accessible shower.

(b) If there is a powder room on the first floor of a dwelling unit, it shall be designed in such a manner to allow sufficient clear floor space for a circle having a diameter measuring 5'-0" to provide maneuvering space for a mobility device. The door shall not swing into that circle. Additionally, a minimum of 3'-0" shall be required on the open side of the toilet to facilitate side transfer.

(c) Bathrooms and powder rooms shall have vanities with surface mount or undermount sinks with a minimum clearance of 2'-3" underneath and a maximum overall vanity height of 2'-10". The vanities shall be no less than 3'-0" in width and 2'-0" deep. They may be open underneath or fitted with doors and sub-base capable of being removed. Faucets shall be lever operated.

(d) Bathroom and powder room walls which adjoin a bathtub, a toilet, or a shower shall be designed and constructed with reinforcement blocking, unless the wall is concrete block, at the locations required by FBC Sections 11-4.16.4, 11-4.20.4 and 11-4.21.4.

Sec. 17.5-37 Light Switches, Electrical Outlets, Thermostats, and Other Controls

All light switches, electrical outlets, thermostats and other controls shall be placed in accessible locations which provide clear floor space and reach ranges as set forth in FBC Section 11-4.2.4 and mounted as set forth herein below.

- (1) Light switches, thermostats, or electrical panels shall be mounted so no functioning element is higher than 4'-0" above the floor.
- (2) Electrical outlets shall be at least 1'-3" above the floor.
- (3) Any electrical panel located outside the dwelling unit shall be installed so no functioning element is higher than 4'-6" above the finish grade, for a side reach as provided in FBC Section 11-4.2.6 and adjacent to an accessible route as defined in FBC Section 11-4.3. If the electrical panel is located within the home then it shall

be along a hallway or passageway as set forth in Section 17.5-33 herein above with clear floor space of at least 2'-6" wide by 4'-0" long.

- (4) Switches for the disposal, any light above the kitchen sink, and a range hood light and fan, shall be mounted within the reach of a user of a mobility device. If any such switch is not immediately desired, then an outlet box for such switches shall be installed with a blank wall plate.
- (5) Switches or electrical outlets mounted around a bathroom sink shall be mounted within the reach of a user of a mobility device.
- (6) An electric drop for future use as an outlet for a door operator on any level entrance exterior door shall be supplied at the upper corner of the door hinge side for swinging doors and operable panel side for sliding doors.

Sec. 17.5-38 Vertical Access

If there is more than one floor of habitable rooms in the dwelling unit, then there shall be a provision for vertical access. The stairwell shall provide a minimum clear width of 4'-0". If there is an intermediate landing, then this shall be a minimum clear space of 4'-2" by 4'-2". Additionally, if future installation of an elevator is desired, then stacked closets, the dimensions of which shall be sufficient in size to serve as an elevator shaftway, may be incorporated for future installation of an elevator.

Sec. 17.5-39 Access to Washer and Dryer

There shall be sufficient clear floor space in front of a washer and dryer to provide parallel access to and clearance beyond each machine to facilitate opening of any front opening machine. In the event the machines are installed in an enclosure the opening shall be of sufficient width to allow complete access with clear floor space of 2'-6" wide by 4'-0" long in front of each machine.

Sec. 17.5-40 Kitchen

(a) The kitchen shall be arranged to provide clear floor space of 2'-6" by 4'-0" for either a front or parallel approach in front of the sink, range or cooktop, refrigerator, built-in microwave, or wall oven. Furthermore, the kitchen shall provide a turn around circle having a diameter of 5'-0" between parallel cabinet runs or a wall.

(b) The location of the controls for a range or cooktop shall be placed so it shall not require reaching across burner units.

(c) The sink base cabinet shall be 4'-6" wide if a double bowl sink and disposal is used. The side of the sink having a disposal shall be 1'-6" and enclosed. The adjacent side shall be 3'-0" and constructed to facilitate clear space below with removable doors and sub-base. If a single bowl sink is used, then the base cabinet shall be 3'-0" and constructed to facilitate clear space below with removable doors and sub-base. Either base cabinet which provides clear space shall not be required to be enclosed with doors or provided with a removable sub-base if immediate use is intended. The floor and wall under any base cabinet which is or may be used for clear access shall be finished.

(d) The dishwasher shall be raised at least 4".

(e) The kitchen sink faucet shall be lever handled.

Sec. 17.5-41 Volatile Organic Compounds

The use of No/Low Volatile Organic Compounds (VOC) including construction and insulating materials, coatings, cabinet and surfacing materials, and all other products shall be required.

Sec. 17.5-42 Sustainable Products

The recipient of the financial assistance described in 17.5-30(c) herein above shall consider using sustainable products and prepare a listing of such products and the cost thereof. If it is financially feasible and the products are better alternatives in terms of durability, then they shall, if the recipient chooses, be used.

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Sec. 17.5-43 Energy Saving Construction and Products

The recipient of the financial assistance described in 17.5-30(c) herein above shall consider using energy saving construction and products that would reduce the cost of operation over typical construction and products. The recipient shall prepare a comparative cost analysis showing the savings and payback period and the effect on the mortgage payments and implement the use of any or all items if the analysis shows a positive impact.

Sec. 17.5-44 Waiver of Exterior Accessibility Regulations

(a) A waiver of the requirements for grading as set forth in Section 17.5-31(a) of this Article for a specific property may be requested by filing an application with the Building Official. The applicant shall attach any documents necessary to demonstrate the applicant's eligibility for the waiver. Applicant eligibility for such waiver shall be based on the Site Impracticability Test Due to Terrain and Site Impracticability Due to Unusual Characteristics set forth under Section 4, Guideline 5, and tests thereunder, promulgated under the Fair Housing Act of 1988.

(b) The Building Official may waive any requirement of Section 17.5-31(a) of this Article if the applicant demonstrates that the conditions of a site render compliance with that requirement an undue hardship.

(c) If the Building Official determines that the site meets the requirements for a waiver, the Building Official shall issue a waiver to the applicant, in writing, not later than 30 days after receipt of application.

Sec. 17.5-45 Conflict with FEMA Regulations

Whenever any requirement of this Article III conflicts with any requirement of the Federal Emergency Management Act (FEMA) or the City's ordinances adopted to implement those requirements (currently Flood Damage Prevention Codes (FDP), the FEMA or FDP requirement shall take precedence.

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Sec. 17.5-46 Compliance with Applicable Building Codes

Compliance with Sections 17.5.30-43 of Article III, of the St. Petersburg City Code is in addition to the minimum standards required by the current version of the Florida Building Code, as amended, and all other applicable local, state and national Codes and Standards.

Section 2. Program Responsibility. Upon adoption of this ordinance the City Council shall assign responsibility for the administration of it. The assignment shall include a directive to formulate policies and procedures to assure compliance to this Ordinance.

Section 3. Severability. The provisions of this ordinance shall be deemed to be severable. If any portion of this ordinance is deemed illegal or unconstitutional, it shall not affect the legality or constitutionality of any other portion of this ordinance.

Section 4. Effective Date. In the event this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall take effect immediately upon filing such written notice with the City Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.