

HACCP ADMISSION AND CONTINUED OCCUPANCY POLICY (ACOP)

CHAPTER 11: PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

Introduction

This chapter explains the PHA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA.

The chapter is organized as follows:

Part I: Service Animals and Assistance Animals.

This part explains the difference between service animals, assistance animals, and pets, and contains policies related to the designation of a service animal or assistance animal as well as their care and handling.

Part II: Pet policies for all developments

This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments

This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments

This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

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Part I: Service Animals and Assistance Animals

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705; Notice FHEO 2013-01]

11-I.A. Overview

This part discusses situations under which permission for a service animal or an assistance animal may be denied, and also establishes standards for the care of service and assistance animals. Notice FHEO 2013-01 was published April 25, 2013. The notice explains the difference between service animals and assistance animals. While the ADA applies to the premises of public housing agencies and to “public accommodations” such as stores and movie theaters, it does not apply to private-market rental housing. Therefore, in public housing, the PHA must evaluate a request for a service animal under both the ADA and the Fair Housing Act. Service animals are limited to trained dogs. Neither service animals nor assistance animals are pets, and thus, are not subject to the PHA’s pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2013-01].

11-I.B. Approval of Service Animals and Assistance Animals

Notice FHEO 2013-01 states that the PHA should first evaluate the request as a service animal under the ADA. The PHA may only ask whether the dog is a service animal required due to a disability, and what tasks the animal has been trained to perform.

The PHA cannot require proof of training or certification for a service animal, even if the disability and/or tasks performed are not readily apparent. If the disability and/or tasks performed are not readily apparent, no further inquiries may be made. PHAs may only deny a request for a service animal in limited circumstances:

- The animal is out of control and the handler does not take effective action to control it,
- The animal is not housebroken, or;

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- The animal poses a direct threat to health or safety that cannot be eliminated or reduced by a reasonable modification of other policies.

A service animal must be permitted in all areas of the facility where members of the public are allowed. If the animal does not qualify as a service animal under the ADA, the PHA must next determine whether the animal would qualify as an assistance animal under the reasonable accommodation provisions of the Fair Housing Act. Such assistance animals may include animals other than dogs.

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179]. A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

HACCP Policy

For an animal to be excluded from the pet policy and be considered a service animal, the PHA must evaluate the request for a service animal under both the ADA and the Fair Housing Act. Service animals are limited to trained dogs. For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family

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must request and the HACCP approve a reasonable accommodation in accordance with the policies contained in Chapter 3.

11-I.C. Care and Handling

HUD regulations do not affect any authority a PHA may have to regulate service animals and assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

HACCP Policy

Residents must care for service animals and assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service animals and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents. When a resident's care or handling of a service animal or assistance animal violates these policies, the HACCP will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the HACCP determines that no such accommodation can be made, the HACCP may withdraw the approval of a particular service or assistance animal.

Part II: Pet Policies for All Developments [24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

11-II.A. Overview

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

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11-II.B. Management Approval of Pets

Registration of Pets

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].
PHA Policy

Pets must be registered with the PHA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Refusal to Register Pets

HACCP Policy

The HACCP will refuse to register a pet if:

- The pet is not a common household pet as defined in Section 11-II.C. below
- Keeping the pet would violate any pet restrictions listed in this policy.
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually.
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order.
- The HACCP reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the HACCP refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the HACCP's decision. The notice will state the

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reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the HACCP's grievance procedures.

Pet Agreement

HACCP Policy

Residents who have been approved to have a pet must enter into a pet agreement with the HACCP, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the HACCP's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the HACCP's pet policy and applicable house rules may result in the withdrawal of HACCP approval of the pet or termination of tenancy.

11-II.C. Standards for Pets [24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size.
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law.
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal.
- Requiring pet owners to have their pets spayed or neutered PHAs may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

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HACCP Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Lagomorphs (rabbit family)
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

Pet Restrictions

HACCP Policy

The following animals are not permitted: Any animal whose adult weight will exceed 25 pounds Dogs of the pit bull, rottweiler, chow, or boxer breeds Attack or fight-trained dogs Ferrets or other animals whose natural protective mechanisms that pose a risk of serious bites or lacerations any animal not permitted under state or local law or code.

Pet Restrictions

HACCP Policy

The following animals are not permitted:

- Any animal whose adult weight will exceed 25 pounds.
- Dogs of the pit bull, rottweiler, chow, or boxer breeds Attack or fight-trained dogs.
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations.

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- Any animal not permitted under state or local law or code Number of Pets HACCP Policy Residents may own a maximum of 1 pet. In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Other Requirements

HACCP Policy

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

11-II.D. Pet Rules

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

HACCP Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times. Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area.

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The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

HACCP Policy

With the exception of common areas as described in the previous policy, the HACCP has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the HACCP has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

HACCP Policy

The pet owner shall be responsible for the removal of waste from the HACCP grounds by placing it in a sealed plastic bag and disposing of it in a container provided by the HACCP.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet or by being dumped in a building trash chute.
- Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

HACCP Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

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Noise

HACCP Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

HACCP Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise, and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage HACCP property or the resident will be responsible for all damages.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

HACCP Policy

The pet owner, will be responsible for their pet at all times. A resident who cares for another resident's pet must notify the HACCP and sign a statement that they agree to abide by all of the pet rules, except for current HACCP pet owners. A resident caring for another resident's pet may do so for no longer than two weeks.

Pets Temporarily on the Premises

HACCP Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals. This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by the HACCP.

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Pet Rule Violations

HACCP Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served. The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting.

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

Notice for Pet Removal

HACCP Policy

If the pet owner and the HACCP are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the HACCP, the HACCP may serve notice to remove the pet. The notice will contain: A brief statement of the factual basis for the HACCP's determination of the pet rule that has been violated The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

Pet Removal

HACCP Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the HACCP after reasonable efforts cannot contact the responsible party, the HACCP may contact the appropriate state or local agency and request the removal of the pet.

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If the agency is nonresponsive, the HACCP will seek other legal and appropriate action to effect safe remove of the pet.

Termination of Tenancy

HACCP Policy

The HACCP may initiate procedures for termination of tenancy based on a pet rule violation if: The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified the pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

Emergencies

HACCP Policy

The HACCP will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately (within 24 hours) removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals. If it is necessary for the HACCP to place the pet in a shelter facility, the cost will be the responsibility of the pet owner. If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

Part III: Pet Deposits and Fees in Elderly/Disabled Developments

11-III.A. Overview

This part describes the PHA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

11-III.B. Pet Deposits

Payment of Deposit

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

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The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

HACCP Policy

The HACCP may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The HACCP must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

11-III.C. Other Charges

Pet-Related Damages during Occupancy

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

Part IV: Pet Deposits and Fees in General Occupancy Developments

11-IV.A. Overview

This part describes the PHA's policies for pet deposits and fees for those who reside in general occupancy developments.

11-IV.B. Pet Deposits

A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

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A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

HACCP Policy

Pet owners of dogs or cats are required to pay a pet deposit of \$150 in addition to any other required deposits. The deposit must be paid in full before the pet is brought on the premises. The pet deposit is not part of rent payable by the resident. No pet deposit will be required for pets other than dogs or cats.

Refund of Deposit

HACCP Policy

The HACCP will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 45 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit. Damages to the unit will be noted on the move-out inspection, which will be provided to the resident as a written list of any charges against the pet deposit within 45 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the HACCP will provide a meeting to discuss the charges.

11-IV.C. Non-Refundable Nominal Pet Fee

PHAs may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

HACCP Policy

The HACCP requires pet owners to pay a non-refundable nominal pet fee.

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This fee is intended to cover the reasonable operating costs to the project relating to the presence of pets. Reasonable operating costs to the project relating to the presence of pets include, but are not limited to:

- Landscaping costs.
- Pest control costs Insurance costs Clean-up costs
- Charges for the non-refundable pet fee are not part of rent payable by the resident.

11-IV.D. Other Charges

Pet-Related Damages during Occupancy

HACCP Policy

All reasonable expenses incurred by the HACCP as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit.
- Fumigation of the dwelling unit.
- Repairs to common areas (indoor and outdoor)
- of the project.

The expense of flea elimination shall also be the responsibility of the resident. If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 9-I.F, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy. Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the HACCP's ability to impose charges for house pet rule violations. However, charges for violation of HACCP pet rules may be treated like charges for other violations of the lease and HACCP tenancy rules.

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HACCP Policy

A separate pet waste removal charge of \$15.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing. Charges for pet waste removal are not part of rent payable by the resident.