

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 960

[Docket No. FR-4437-F-02]

RIN 2577-AB94

Pet Ownership in Public Housing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to permit public housing residents to own pets, subject to reasonable requirements that the public housing agency may establish in consultation with the residents. This rule implements pet ownership policies and general requirements for residents of public housing other than public housing developments for the elderly or persons with disabilities. HUD published a proposed rule on June 23, 1999, and this final rule takes into consideration the public comments received on the proposed rule. This rule does not affect the pre-existing regulations covering pet ownership requirements for residents of public housing developments for the elderly or persons with disabilities.

DATES: *Effective Date:* August 9, 2000.

FOR FURTHER INFORMATION CONTACT:

Patricia S. Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Room 4222, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410-5000; telephone (202) 708-0744 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. The June 23, 1999 Proposed Rule

The June 23, 1999 rule proposed to implement section 526 of the Quality Housing and Work Responsibility Act of 1998 (Pub.L. 105-276, approved October 21, 1998) (referred to as the "Public Housing Reform Act"), which added new section 31 (captioned "Pet Ownership in Public Housing") to the United States Housing Act of 1937 (see 42 U.S.C. 1437z-3) (the Act). Section 31 establishes pet ownership requirements for residents of public housing other than public housing developments for the elderly or persons with disabilities. The proposed rule can be found at 64 FR 33640 (June 23, 1999).

The June 23, 1999 rule proposed to amend 24 CFR part 960 by adding a new

subpart G, consisting of the following new sections: § 960.701 (captioned "Purpose"), stating that the purpose of subpart G is to permit pets in public housing; § 960.703 (captioned "Applicability"), limiting the applicability of the subpart G regulations to public housing other than public housing developments for the elderly or persons with disabilities (pet ownership in such housing is covered in 24 CFR part 5, subpart C); § 960.705 (captioned "Animals that assist, support, or provide service to persons with disabilities"), exempting service animals for people with disabilities; and § 960.707 (captioned "Pet ownership"), implementing the primary requirements of section 31 of the Act.

The main substantive regulatory section in the proposed rule, § 960.707, consisted of four paragraphs. Paragraph (a) provided that a public housing resident may own one or more common household pets if the resident maintains each pet responsibly, in accordance with applicable State and local public health, animal control and animal anti-cruelty laws and regulations, and in accordance with the policies established in the Public Housing Agency (PHA) Plan. Paragraph (b) provided examples of reasonable requirements that PHAs may impose on pet owners, such as limits on the number of animals in a unit and certain fees, specifically non-refundable nominal fees to cover costs to the development and refundable pet deposits. The non-refundable nominal fee is intended to cover the reasonable operating costs to the development relating to the presence of pets, and the refundable pet deposit is intended to cover additional costs not otherwise covered, such as damage to the unit, for example, attributable to a resident's pet. Paragraph (c), as proposed, provided for placing pet deposits into an escrow account from which the unused portion would be refunded. Finally, paragraph (d) provided that a PHA's pet policies under this rule must be included in the agency's Annual Plan under 24 CFR part 903.

II. This Final Rule

This final rule adopts most of the core provisions of the proposed rule, but makes some changes to the proposal in response to public comments received. Specifically, in response to comments stating that the rule did not fully implement Congressional intent, HUD has revised the purpose section, § 960.701, to more fully express Congress' intent that PHAs permit pet ownership subject to reasonable rules.

HUD has made editorial changes to § 960.703 to more properly distinguish

this rule from the existing rule that is found in 24 CFR part 5, subpart C, that pertains to pet ownership by the elderly and persons with disabilities. Because of these changes, a cross-reference has been removed.

Additionally, in response to comments that applicable State or local law should govern pet deposits, HUD has modified the proposed refundable escrow requirement in § 960.707(d), to provide that State or local laws applicable to pet deposits or, if applicable, rental security deposits apply.

Section 960.705 has been recaptioned and slightly revised to conform to fair housing requirements regarding animals that assist, support, or provide service to persons with disabilities. As before, the section generally states that this section does not apply to such animals, and does not affect either a PHAs right to require residents to comply with other existing requirements regarding such animals, or existing protections for such assistive animals. The primary difference from the proposed rule is that different language is used to define such animals, including the idea that these animals are necessary as a reasonable accommodation to persons with disabilities.

Section 960.707(b), which lists examples of reasonable requirements that PHAs may impose on pet owners, has been revised to add a provision specifying that PHAs may require pet owners to register their pets, and have them spayed or neutered. Also, a slight modification was made to paragraph (b)(3) of § 960.707 to clarify the applicability of State and local law to the issue of classifying certain animals as dangerous. A new paragraph (c) has been added to prohibit PHAs from requiring that pet owners remove their pet's vocal chords, in response to comments on that issue.

In § 960.707(b)(1), the distinction between nonrefundable nominal pet fees and refundable pet deposits has been clarified. Specifically, the nonrefundable fee is for general costs to the development associated with pet ownership, and the deposit is for costs attributable to particular pets that are not otherwise covered. This distinction is further explained in responses to comments.

Finally, further specificity has been added regarding the Annual Plan process in what is now § 960.707(e) to specify that, unless otherwise provided by 24 CFR 903.11, Annual Plans are required to contain information regarding the PHA's pet policies, as described in 24 CFR 903.7(n), beginning

with PHA fiscal years that commence on or after January 1, 2001.

III. Discussion of the Public Comments

The comment period for this rule closed on August 23, 1999. HUD received 3,777 comments. The commenters included public housing residents, resident organizations, public housing authorities, legal aid organizations, public interest animal advocacy groups, and individuals interested in issues involving animal welfare. HUD received approximately 3,000 additional comments after the close of the comment period. To the extent possible, HUD reviewed these comments to determine if any raised issues not already covered by the almost 4,000 timely comments.

HUD received a number of comments from commenters opposed to this rulemaking as a whole and to the idea of allowing pet ownership in public housing. This rulemaking is required by section 31 of the Act and because the issue of whether to allow pet ownership in public housing is not within HUD's discretion to change, there is no further discussion of this issue in the preamble. A summary of the remaining comments follows.

General Comments

Comment: The regulation is so general that it fails to implement Congressional intent. While the proposed rule allowing PHAs broad discretion comports with the 1998 public housing reform, the rule may be so general that it does not implement Congress' intent that PHAs permit pet ownership. The rule should do more than merely restate the general guidance given by Congress, and therefore HUD should publish another proposed rule.

Response: In order to more clearly state the intent of the rule to allow public housing residents to own pets, HUD has modified the purpose section to state that PHAs must allow pet ownership, subject to reasonable requirements. Insofar as portions of the rule mirror the statutory language, the rule therefore reflects Congressional intent that PHAs must permit pet ownership subject to reasonable requirements. HUD acknowledges that the rule leaves important aspects to local decision-making. This, however, is also consistent with Congressional intent, as the statute provides that applicable State and local public health, animal control and animal anti-cruelty laws and regulations, as well as policies established by the PHA, govern pet ownership in public housing. The fact that the rule requires information regarding pet policies to be included in

the agency's Annual Plan as provided in 24 CFR 903.7 and thus subject to public hearing, Resident Advisory Board consultation and HUD review requirements applicable to the plan insures that the intent of the provision will be implemented with substantial community input, to provide guidance. Furthermore, HUD believes that the proposed rule gave adequate public notice of the issues involved, by providing examples of the types of guidelines PHAs could institute and specifying that PHAs and residents could also make local decisions on pet policy as part of the Annual Plan process under 24 CFR part 903. This approach is similar to the discretion PHAs have in administering pet policies in public housing developments for the elderly or persons with disabilities. At this time, HUD does not plan to publish another proposed rule.

Comment: HUD's pet rules should be combined. HUD should integrate the proposed public housing pet rules (24 CFR part 960) with the pet rules for pet ownership for the elderly or persons with disabilities (24 CFR part 5).

Response: The pet rules for the elderly or persons with disabilities are placed in part 5 because they apply both to HUD's public housing and assisted housing programs. Rather than repeating them in a number of different CFR sections, HUD places such cross-cutting rules in part 5. This rule, however, belongs in part 960 because it only applies to public housing.

Comment: HUD should use the Massachusetts Guidelines for State-Aided Elderly Housing to develop its pet regulations. These guidelines provide a good basis to develop pet regulations.

Response: While elements of the Massachusetts Guidelines may be appropriate for certain PHAs, other PHAs, in consultation with their residents through the Annual Plan process under 24 CFR part 903, may wish to institute different or varying guidelines as locally appropriate. Indeed, section 31 of the Act requires that pet policies comport with local law and with the policies established in the Plan for each PHA, and these local laws and plans may vary. Therefore, rather than requiring each PHA to implement the specific Massachusetts Guidelines, HUD has determined that it is important and in accordance with Congressional intent to preserve local options. At a later date HUD may provide to PHAs, as technical assistance, examples of pet policies for PHAs to consider in developing their pet rules.

Comment: Clarify formal procedures for adopting pet rules. This rule should state formal procedures for adopting and

changing pet rules as do §§ 5.350 and 5.353 of HUD's pet regulations for developments for the elderly and persons with disabilities.

Response: Because information regarding PHA's requirements relating to pet ownership are to be included in the PHA's Annual Plan under 24 CFR part 903, which covers HUD review and approval requirements, additional formal requirements are not necessary, except that HUD has revised the rule to specify that PHAs must start including information regarding their pet policies in their PHA Plans beginning on January 1, 2001.

Comment: The rule should impose requirements on assistance animals for persons with disabilities. The final rule should impose requirements on assistance animals for persons with disabilities in public housing complexes that are not complexes designated for the elderly or persons with disabilities, such as certification that the household contains a person with disabilities that would benefit from the assistance of the animal, that the animal has been appropriately trained, and that the animal actually provides assistance to the person with disabilities.

Response: The statute, legislative history and the proposed rule all indicate that section 31 intends to regulate only "common household pets." Therefore, regulation of animals that provide assistance, support, or service to persons with disabilities is beyond the scope of this rulemaking. In this regard, HUD believes that animals that provide assistance, service or support to persons with disabilities, and are needed as a reasonable accommodation to such individuals, are not "common household pets." Rather, they are assistive animals, necessary to provide the individual with an opportunity to use and enjoy the dwelling to the same extent as residents without disabilities. Section 960.705 of the final rule clarifies that the provisions of subpart G and any PHA pet policies established under subpart G do not apply to such animals.

Comment: Because pet ownership policies will be approved by HUD staff through the PHA Plan approval process, HUD should conduct a "minimalist" review of PHA pet policies. This rule should provide that HUD will conduct this minimalist review of PHA pet policies.

Response: The only review of PHA pet policies contemplated by this regulation is through the PHA Annual Plan process under 24 CFR part 903. Therefore, no change to the regulation is necessary as a result of this comment.

Comment: Certain terms should be defined in the rule. Some commenters requested that the rule define the term "common household pet." One commenter asked that the term "responsibly" (used in § 960.707(a)(1)) be defined to ensure a common understanding among PHAs. Another commenter stated that the term should not be defined since it is not defined in section 31 of the Act. Other commenters stated that the final rule should define the concept of "nominal fee" as used in § 960.707(b)(1). Another commenter stated that the rule should clarify what the word "reasonable" means in § 960.707(b).

Response: Because of variations among local communities, HUD agrees that the regulation should not define these terms. Each PHA should define "allowable household pets," the elements of "responsible pet ownership," the concept of "nominal fee," and what regulations are "reasonable" as part of its pet policies that will be part of the PHA Plan and hence developed in consultation with the Resident Advisory Board. Permitting PHAs to define terms is consistent with the administration of pet rules in public housing developments for the elderly and persons with disabilities.

Comment: Banning of dangerous animals. HUD should neither encourage nor permit PHAs to ban specific breeds of dogs. The final rule should require that an animal behaviorist make any final decision that an animal is dangerous. The final rule should either define the term "dangerous animal" or provide a list of dangerous animals.

Response: Section 31 of the Act provides that a PHA's reasonable requirements may include prohibitions on types of animals that are classified as dangerous. Thus, the rule contains a provision implementing that statutory provision. In some cases, State or local law may govern the classification and treatment of "dangerous animals" and whether to ban specific breeds; in those cases, the PHA's pet policy must be consistent with State or local law.

Pet Deposits

Comment: State and local law should govern pet deposits. A number of commenters stated that PHAs should be allowed to hold pet deposits in accordance with State and local laws. Another commenter opposed the proposed rule on the basis that HUD's proposed regulation could have the effect of preempting local laws that give pet owners greater protection.

Response: Because most States already have laws regulating such deposits, HUD agrees that State or local

laws relating to pet deposits or security deposits (if applicable) should apply, and has revised the rule accordingly.

Comment: Pet deposits should not have to be placed in escrow accounts. The rule should not require escrow accounts or interest because the administrative burden outweighs the small amounts of funds involved. The pet rule for housing for the elderly and persons with disabilities does not require them, and payment of interest is not required by the statute.

Response: Section 31 of the Act permits PHAs to charge a non-refundable nominal fee to cover the reasonable operating costs to the development related to the presence of pets, a refundable pet deposit to cover additional costs not otherwise covered, or both. Thus, PHAs have the discretion to establish fees, deposits, or both. With respect to deposits, legislative history indicates that Congress expects such accounts to be interest-bearing. However, rather than trying to impose a new scheme in an area where States generally already have laws and regulations governing either pet deposits, security deposits, or both, HUD has revised the proposed rule to state that local legal requirements will govern any such escrow accounts as to interest and other matters.

Comment: Pet deposits should be used for specified purposes. One commenter stated that accrued interest on pet deposits should be placed in the PHA's resident services and activities fund. Another comment stated that the final rule should authorize PHAs to use all pet deposits and nominal fees for costs of maintenance related to pet ownership.

Response: Section 31 specifies the uses of pet fees and deposits. The statute indicates that the purpose of fees is to cover the "reasonable operating costs to the project relating to the presence of pets," and deposits are for additional costs not otherwise covered. HUD believes that, in accordance with the overall purpose of this section, "additional costs not otherwise covered" refers to pet-related costs not covered by the nominal fee, not overall maintenance or operating costs of the development, which are covered by other HUD funding. PHAs may use pet deposits and interest for items not covered by the fee, which HUD interprets to refer to costs for damage attributable to a particular pet and not covered by the fee, and may use nominal pet ownership fees for purposes of maintenance of the development related to pet ownership.

PHA Requirements for Pet Ownership

Comment: Certain requirements should be included or mandated in the rule. A number of commenters sought to have various specific requirements added to the rule. These include the following described in this comment.

The following recommendations should be added to the rule to provide sufficient guidance: Mandate the spaying and neutering of dogs and cats; establish pet committees in all housing complexes that will be responsible for enforcement of the pet rules; ensure that pet rules protect the safety, health and well-being of pets as well as people in the community; and prohibit PHAs from requiring inhumane procedures, such as debarking or declawing.

A Pet Ombudsman should be appointed to oversee Federal pet policies; pets found roaming at large should be "microchipped" for future identification; residents should be allowed to temporarily keep foster pets received from an animal welfare agency or rescue group for companion animals.

Additional comments were as follows:

Outside pets should have adequate fencing and shelter;

The rule should prohibit outdoor pets;

The rule should prohibit or allow PHAs to prohibit pets based on climate-related factors;

There should be a limit on the number of different species of pet in a unit;

The rule should prohibit specific pets, such as certain kinds of dogs, birds, non-human primates and pot-bellied pigs;

The rule should require that dogs and cats be on leashes when outside;

The rule should prohibit the tethering or chaining of any animals;

PHA should have the right to take certain actions if there is evidence of an animal in distress, including entry into the unit, impoundment of the animal, and alerting authorities;

The rule should impose a limitation on the number of pets allowed per unit;

The rule should require that pets wear identification at all times;

The rule should prohibit tail and ear docking;

The rule should require that a PHA's pet regulations along with a telephone number to report violations should be posted;

The rule should require that all pets be spayed and neutered;

The rule should not allow requirements that pets be spayed and neutered; and

The rule should include specific requirements for ensuring the health of pets.

Response: Under the rule, PHAs can institute reasonable requirements addressing any or all of these issues. Because many commenters on the specific issue of spaying and neutering requirements made strong arguments that such requirements are desirable as policy, the final rule specifies that PHAs have the discretion to adopt such requirements.

HUD also agrees with a number of comments regarding “debarking” pets, and so has added a provision in the final rule to prohibit a PHA from requiring that any pet’s vocal chords be removed. This matches a provision of the current regulations regarding pets in public housing developments for the elderly and persons with disabilities.

As to the concept of an ombudsman, to the extent disputes occur, HUD expects PHAs to settle disputes with their residents reasonably and in accordance with the law and regulations. HUD field staff can assist by answering questions.

In addition, the statute and rule require residents to maintain pets in accordance with State and local public health, animal control, and anti-cruelty laws and regulations, most of which address health and safety concerns.

Comment: Rule should make clear that public housing residents must obtain PHA approval before owning a pet. The final rule should clarify this point.

Response: As one of its “reasonable requirements,” a PHA may now require that pet owners register their pets. Such registration may include such matters as, for example, the certification of a licensed veterinarian or a State or local authority (or agent of such authority) empowered to inoculate animals, that the pet has received all inoculations required by applicable State and local law; information sufficient to identify the pet and to demonstrate that it is a common household pet; and the name, address and telephone number of one or more responsible parties who will care for the pet if the owner is unable to do so for any reason.

Comment: Eliminate certain language from the rule. Section 960.707(b)(4) of the proposed rule reads “[Reasonable requirements may include] * * * (4) Restrictions or prohibitions based on size and type of building or project or other relevant conditions.” One commenter states that the phrase “or prohibitions” is overly broad and could be used to negate the intent of section 31. Another commenter states that the phrase “or other relevant conditions” is too vague.

Response: The referenced language is statutory and so is retained in the final

rule (see section 31(b)(4) of the Act). Since the overall intent of the statute is to permit pet ownership in public housing, this language should not be used to negate the intent of the rule, and PHAs should apply this section consistently with that intent.

Comment: The final rule should provide that PHAs may demand proof of liability insurance or evidence of financial responsibility as a condition of pet ownership. The final rule should include this as a reasonable requirement in § 960.707(b).

Response: The lower-income population served by PHAs is not likely to have access to liability insurance. At best, such insurance would pose a further financial hardship on PHA residents. When section 31 refers to “reasonable requirements,” it means reasonable requirements relating to pet ownership. Reasonable requirements include, for example, limiting the number of pets per unit and prohibiting dangerous animals (see sections 31(b)(2) and (3) of the Act). However, a requirement to have liability insurance could well make it impossible for most PHA residents to have pets, thus frustrating the intent of the statute. Liability insurance, therefore, is not a “reasonable requirement” within the intent of section 31. Thus, the PHA may not require evidence of liability insurance.

Comment: PHAs should be able to follow the pet rules for private multifamily housing. PHAs should not be required to allow pets where private housing of a similar density would not. PHAs must not be forced to accept conditions that go beyond that which is standard in the private market. The final rule must give PHA’s the authority to designate areas for pets and areas where pets are not allowed.

Response: Section 31(d) of the Act requires HUD to promulgate regulations requiring PHAs to permit pet ownership, and this fact distinguishes PHAs from private housing in respect to pet ownership. The statute and § 960.707(b)(4) of the regulations permit “restrictions or prohibitions based on the size and type of building * * * or other relevant conditions.” Where appropriate to local conditions, and in consultation with the Resident Advisory Board as part of the PHA’s Plan, an individual PHA could institute some pet-free areas. However, HUD expects PHAs, consistent with statutory intent, to generally allow pet ownership.

Comment: Rule needs to address adequate care of pets. In the final rule, HUD should provide guidance regarding adequate care of pets.

Response: The rule refers to applicable State and local animal control and anti-cruelty laws. Such laws provide guidance relevant in each jurisdiction regarding animal welfare. Also, PHAs and pet owners may obtain information from organizations, such as local humane societies.

Comment: The rule should allow individual developments to vote on whether or not to allow pets. Allowing residents to vote on whether to allow pets could be considered a “reasonable requirement” under § 960.707(b).

Response: The purpose of section 31 of the Act is to permit pet ownership by those residents who wish to own pets and comply with reasonable requirements. Reasonable requirements include, for example, limiting the number of pets per unit and prohibiting dangerous animals (see sections 31(b)(2) and (3) of the Act). Legislative history indicates that pet-free areas could be instituted, for example, to accommodate residents who are allergic to pets (see H.R. Report No. 105–76, at 132). In other words, the reasonable requirements contemplated by the statute impose conditions under which pets may be owned, and have some relation to the proper care of the pet or the welfare of the community. Allowing those residents who prefer not to have pets to prohibit all residents from having pets on the basis of a vote would go beyond imposing reasonable conditions on pet ownership and would amount to a contravention of the statutory intent to allow pet ownership. Of course, residents of particular housing could argue to their PHA that there are characteristics of that housing which make various limitations on pet ownership appropriate.

Comment: The rule should provide guidance regarding unit size. Section 960.707(b)(2) provides for limitations on the number of animals in a unit, based on unit size. The commenters state that PHAs could effectively prohibit all pet ownership by characterizing all of their units as too small to accommodate pets. Thus, guidelines from HUD regarding unit size and number of pets are needed.

Response: Information regarding the PHA’s pet policy must be part of the PHA’s Plan under 24 CFR part 903, which is subject to public hearing, Resident Advisory Board consultation, and HUD review. As a result, HUD believes that PHAs will promulgate reasonable pet rules.

Comment: Only certain animals should be allowed as pets. One comment stated that farm animals, exotic pets, breeding animals, wild or feral animals, and dangerous animals should not be allowed. Another

comment stated that only cats and dogs should be allowed.

Response: As to the keeping of farm, exotic, and dangerous animals, many States and localities have laws regarding such animals, with which PHAs will have to comply. Also, as to types of animals not covered by such laws, PHAs and Resident Advisory Boards will decide which animals are appropriate as pets as part of the PHA Plan process.

IV. Findings and Certifications

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule provides for pet ownership in public housing, and allows PHAs to collect pet deposits to defray the costs to the development of pet ownership.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969 at the proposed rule stage. That Finding remains applicable to this rule and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Federalism Impact

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their

regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Regulatory Planning and Review

The Office of Management and Budget (OMB) has reviewed this rule under Executive Order 12866 (captioned "Regulatory Planning and Review") and determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m.) at the Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500.

List of Subjects in 24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Pets, Public housing.

For the reasons discussed in the preamble, HUD amends 24 CFR part 960 as follows:

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

1. The authority citation for 24 CFR part 960 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z-3, and 3535(d).

2. Add subpart G to read as follows:

Subpart G—Pet Ownership in Public Housing

Sec.

960.701 Purpose.

960.703 Applicability.

960.705 Animals that assist, support, or provide service to persons with disabilities.

960.707 Pet ownership.

Subpart G—Pet Ownership in Public Housing

§ 960.701 Purpose.

The purpose of this subpart is, in accordance with section 31 of the United States Housing Act of 1937 (42 U.S.C. 1437z-3), to permit pet ownership by residents of public housing, subject to compliance with reasonable requirements established by the public housing agency (PHA) for pet ownership.

§ 960.703 Applicability.

This subpart applies to public housing as that term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)), except that such term does not include public housing developments for the elderly or persons with disabilities. Regulations that apply to pet ownership in such developments are located in part 5, subpart C, of this title.

§ 960.705 Animals that assist, support, or provide service to persons with disabilities.

(a) This subpart G does not apply to animals that assist, support or provide service to persons with disabilities. PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing, as that term is used in § 960.703, and such animals that visit these developments.

(b) Nothing in this subpart G:

- (1) Limits or impairs the rights of persons with disabilities;
- (2) Authorizes PHAs to limit or impair the rights of persons with disabilities; or
- (3) Affects any authority that PHAs may have to regulate service animals that assist, support or provide service to persons with disabilities, under Federal, State, or local law.

§ 960.707 Pet ownership.

(a) *Ownership Conditions.* A resident of a dwelling unit in public housing, as that term is used in § 960.703, may own one or more common household pets or have one or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the PHA, if the resident maintains each pet:

(1) Responsibly;

(2) In accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations; and

(3) In accordance with the policies established in the PHA Annual Plan for the agency as provided in part 903 of this chapter.

(b) *Reasonable requirements.*

Reasonable requirements may include but are not limited to:

(1) Requiring payment of a non-refundable nominal fee to cover the reasonable operating costs to the development relating to the presence of pets, a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered, or both;

(2) Limitations on the number of animals in a unit, based on unit size;

(3) Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable State and local law, and prohibitions on individual animals, based on certain factors, including the size and weight of animals;

(4) Restrictions or prohibitions based on size and type of building or project, or other relevant conditions;

(5) Registration of the pet with the PHA; and

(6) Requiring pet owners to have their pets spayed or neutered.

(c) *Restriction.* A PHA may not require pet owners to have any pet's vocal chords removed.

(d) *Pet deposit.* 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 State or local law has no requirements regarding pet deposits, for rental security deposits, if applicable. The PHA shall comply with such applicable law as to retention of the deposit, interest, and return of the deposit or portion thereof to the resident, and any other applicable requirements.

(e) *PHA Plan.* Unless otherwise provided by § 903.11 of this chapter, Annual Plans are required to contain information regarding the PHA's pet policies, as described in § 903.7(n) of this chapter, beginning with PHA fiscal years that commence on or after January 1, 2001.

Dated: June 30, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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