

§5.312

or the presence of such pets in the person's dwelling unit.

§5.312 Notice to tenants.

(a) During the development of pet rules as described in §§5.353 or 5.380, the project owner or PHA shall serve written notice on all tenants of projects for the elderly or persons with disabilities in occupancy at the time of service, stating that:

(1) Tenants are permitted to own and keep common household pets in their dwelling units, in accordance with the pet rules (if any) promulgated under this subpart C;

(2) Animals that are used to assist persons with disabilities are excluded from the requirements of this subpart C, as provided in §5.303;

(3) Tenants may, at any time, request a copy of any current pet rule developed under this subpart C (as well as any current proposed rule or proposed amendment to an existing rule); and

(4) Tenants may request that their leases be amended under §5.321 to permit common household pets.

(b) The project owner or PHA shall provide to each applicant for tenancy when he or she is offered a dwelling unit in a project for the elderly or persons with disabilities, the written notice specified in paragraphs (a) (1), (2), and (3) of this section.

(c) If a PHA chooses not to promulgate pet rules, the notice shall be served within 60 days of the effective date of this part. PHAs shall serve notice under this section in accordance with their normal service of notice procedures.

§5.315 Content of pet rules: General requirements.

(a) *Housing programs.* The project owner shall prescribe reasonable rules to govern the keeping of common household pets. The pet rules must include the mandatory rules described in §5.350 and may, unless otherwise noted in this subpart C, include other discretionary provisions as provided in §5.318.

(b) *Public Housing programs.* (1) PHAs may choose not to promulgate rules governing the keeping of common household pets or may include rules as provided in §5.318. PHAs may elect to

24 CFR Subtitle A (4-1-23 Edition)

include provisions based on those in §5.350. If they so choose, the PHAs may modify the provisions in §5.350 in any manner consistent with this subpart C.

(2) If PHAs choose to promulgate pet rules, tenants must be permitted to own and keep pets in their units in accordance with the terms and conditions of their leases, the provisions of this subpart C, and any applicable State or local law or regulation governing the owning or keeping of pets in dwelling accommodations.

(3) PHAs that choose not to promulgate pet rules, shall not impose, by lease modification or otherwise, any requirement that is inconsistent with the provisions of this subpart C.

(c) *Use of discretion.* (1) This subpart C does not define with specificity the limits of the project owners' or PHAs' discretion to promulgate pet rules. Where a project owner or PHA has discretion to prescribe pet rules under this subpart C, the pet rules should be:

(i) Reasonably related to furthering a legitimate interest of the project owner or PHA, such as the owner's or PHA's interest in providing a decent, safe, and sanitary living environment for existing and prospective tenants and in protecting and preserving the physical condition of the project and the owner's or PHA's financial interest in it; and

(ii) Drawn narrowly to achieve the owner's or PHA's legitimate interests, without imposing unnecessary burdens and restrictions on pet owners and prospective pet owners.

(2) Where a project owner or PHA has discretion to prescribe pet rules under this subpart C, the owner or PHA may vary the rules' content among projects and within individual projects, based on factors such as the size, type, location, and occupancy of the project or its units, provided that the applicable rules are reasonable and do not conflict with any applicable State or local law or regulation governing the owning or keeping of pets in dwelling accommodations.

(d) *Conflict with State or local law.* The pet rules adopted by the project owner or PHA shall not conflict with applicable State or local law or regulations. If such a conflict may exist, the State

and local law or regulations shall apply.

§5.318 Discretionary pet rules.

Pet rules promulgated by project owners and PHAs may include, but are not limited to, consideration of the following factors:

(a) *Definitions of “common household pet”*—(1) *For Public Housing programs.* The pet rules established by a PHA may contain a reasonable definition of a common household pet.

(2) *For Housing programs.* Project owners wishing to define “common household pet” in their pet rules must use the Housing programs definition of the term in §5.306.

(b) *Density of tenants and pets.* (1)(i) The pet rules established under this section may take into account tenant and pet density. The pet rules may place reasonable limitations on the number of common household pets that may be allowed in each dwelling unit. In the case of group homes, the pet rules may place reasonable limitations on the number of common household pets that may be allowed in each home.

(ii) *For Housing programs.* Under these rules, project owners may limit the number of four-legged, warm-blooded pets to one pet in each dwelling unit or group home.

(iii) Other than the limitations described in this paragraph (b)(1), the pet rules may not limit the total number of pets allowed in the project.

(2) As used in paragraph (b)(1) of this section, the term “group home” means:

(i) *For purposes of Housing programs.* A small, communal living arrangement designed specifically for individuals who are chronically mentally ill, developmentally disabled, or physically disabled who require a planned program of continual supportive services or supervision (other than continual nursing, medical or psychiatric care).

(ii) *For purposes of Public Housing programs.* A dwelling or dwelling unit for the exclusive residential use of elderly persons or persons with disabilities who are not capable of living completely independently and who require a planned program of continual supportive services or supervision (other than continual nursing, medical or psychiatric care).

(c) *Pet size and pet type.* The pet rules may place reasonable limitations on the size, weight, and type of common household pets allowed in the project.

(d) *Potential financial obligations of tenants*—(1) *Pet deposits.* The pet rules may require tenants who own or keep pets in their units to pay a refundable pet deposit. In the case of project owners, this pet deposit shall be limited to those tenants who own or keep cats or dogs in their units. This deposit is in addition to any other financial obligation generally imposed on tenants of the project. The project owner or PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet in the project, including (but not limited to) the cost of repairs and replacements to, and fumigation of, the tenant’s dwelling unit and, for project owners, the cost of animal care facilities under §5.363. The project owner or PHA shall 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 (or a cat or dog in the case of project owners) in the dwelling unit.

(2) *Housing programs: Maximum pet deposit.* (i) Pet deposits for the following tenants shall not exceed an amount periodically fixed by HUD through notice.

(A) Tenants whose rents are subsidized (including tenants of a HUD-owned project, whose rents were subsidized before HUD acquired it) under one of the programs identified by HUD through notice.

(B) Tenants who live in a project assisted (including tenants who live in a HUD-owned project that was assisted before HUD acquired it) under one of the programs identified by HUD through notice.

(C) For all other tenants of projects for the elderly or persons with disabilities, the pet deposit shall not exceed one month’s rent at the time the pet is brought onto the premises.

(ii) In establishing the maximum amount of pet deposit under paragraph (d)(2)(i) of this section, HUD will consider factors such as:

(A) Projected, estimated expenses directly attributable to the presence of pets in the project;