

## DEALING WITH PETS AND ANIMALS

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One of the top areas of frustration and challenge for owners and property managers are policies relating to pets and residents at “no-pets” or “no-animals” properties where there is a request for reasonable accommodation for a service animal or companion animal (also referred to as a therapy animal, emotional support animal, comfort animal, assistance animal, etc.).

From the standpoint of residential rental property, there is little difference between a service animal and an animal that provides companionship for a disability. The state and federal Fair Housing laws require any person with a “disability,” as that term is defined by the Fair Housing Act, be given an accommodation if that accommodation is “necessary” to help overcome a barrier or limitation with a disability and – in some aggressive interpretations – to give a disabled person what s/he thinks s/he needs.

For owners that have never had a policy relating to animals, the first request for a service/companion animal can prove frustrating. If the resident/applicant already has the animal, and there is a therapeutic bond between the disabled person and the animal, there is little the owner/manager can do to prevent or deny the accommodation. Weight or breed restrictions simply cannot be applied to an animal that really is “necessary” for a “disability.”

But in many circumstances, the applicant or resident does not already have an animal. In these cases, and in other cases where owners are looking to expand their marketing by being a pet-friendly or animal-friendly property, it is recommended that residential property owners and managers implement animal/pet policies.

For senior housing that is receiving federal subsidies, the law requires that pet policies be in place and sets some limits on what owners can and cannot do and the amount of certain charges.

Even if a property allows cats or dogs, unique issues can come up with residents wanting birds, reptiles or exotic pets, and even fish in large tanks.

I have developed and recommend that my clients put in place some general policy about animals that are permitted, or not permitted, at rental property. These policies may or may not be distributed in a lease or resident handbook. But having policies in place can help the owner/manager when the first request to have an animal, including an accommodation animal, is raised at the property. If the applicant or resident does not already own an animal, it is more reasonable to apply and expect compliance with policies that are already in place, than it would

be for an owner/manager to just start “making stuff up” and apply these new rules or policies to a disabled applicant or resident for the first time.

The policies written below are sample policies that I have used or recommended. Keep in mind these policies apply in advance to describe the type of animals that are permitted or that might require permission at a rental property. Once a dog or cat is approved, I also recommend that an Animal License Agreement be put in place. I am careful not to refer to these agreements as “pet” agreements. Disability advocates will take the position that animals needed for a disability are not “pets.” They are the same as a cane or a wheelchair. They are essential and “necessary” for the resident’s wellbeing. To avoid arguments over vocabulary, I have started taking the word “pet(s)” out of my legal vocabulary and simply calling a cat or dog what it is – an animal. Once a cat or dog is permitted on-property, an Animal License Agreement should be put in place to govern everything from cleaning up after the animal to responsibility for the animal and to define problem/nuisance behaviors like barking, whining or jumping on others that are not permitted. A well-written and detailed License Agreement can run 2-3 pages long. It should require the animal owner to designate an alternate animal care provider, and to provide and keep contact information current, so that management always has one or more persons that can be contacted to remove and care for the animal, should the resident "disappear," be hospitalized or otherwise fail to provide proper care for an animal.

Here is a sample of a policy I have developed for animals at rental property.

**HANBERY MANAGEMENT CO. (Management)  
ANIMAL POLICY**

**Animals Permitted.** Management manages a variety of rental communities. Some of the properties we manage allow residents to own one or two cat/dogs. Applicants and residents should check with the site office of your rental community to determine what animals are permitted, the number of animals allowed per unit, and any requirements to pay a non-refundable animal approval fee or additional dollars required to be added to your security deposit. Some properties may require DNA testing for dogs where a fee for the test - and fines for any animal waste found at the property - are in place.

Any property we manage will require residents to comply with these policies. Where a dog/cat is permitted, an Animal License Agreement must be signed and Management’s prior WRITTEN approval is ALWAYS required in advance, with review of all required paperwork, before any dog or cat can be brought to the property or to your unit.

- Birds – Limit of 2. Caged birds (limit 2). Only species that are normally kept as household pets, such as canaries or parakeets, are permitted. Birds must be confined in cages at all times. Birds of prey are not permitted. Management’s advance consent to own up to two birds is not required; but complaints about noise, odors, birds being loose in the apartment/within the building, or other conduct with birds, is grounds to terminate resident’s right to own or keep a bird(s).
- Fish – in tanks or aquariums not exceeding 20 gallons in capacity. Poisonous or dangerous fish are not permitted.

- No snakes, reptiles, insects, or other mammals – except at properties that allow cats/dogs.
- Cats/Dogs – some properties allow cats/dogs and may allow up to two animals upon payment of the required fees and charges. Check individual sites for specific policies.

**Where Cats and Dogs Are Permitted.** The following rules and policies apply to any cat or dog ownership:

- Dogs must be housebroken. Cats must be trained to a litter box. Dogs must be toileted outside. No inside “pads,” artificial indoor turf or tarps on decks or patios are permitted for animal waste.
- Animals must be at least one year of age. This must be confirmed by documentation from a veterinarian.
- Animals must be spayed/neutered. Cats must be declawed on front paws.
- You must provide Management with proof that all required vaccinations have been given. Updates on required vaccinations and other appropriate veterinary care must be provided upon request.
- Any license required by the applicable city or municipality shall be obtained and proof of such license shall be provided to Management.
- Some properties may have restrictions on breed of dogs and weight of animals. Management reserves the right to deny approval to any animal where a prior screening of the animal at former rental or other housing shows that the animal has engaged in aggressive, dangerous, or other problem/nuisance behaviors.

Each owner, manager and property may be different. These sample policies may or may not be appropriate for your building or portfolio, but an effort to consider what you have been doing, what you want to do, and putting your policies in place and in-writing, is a wise step to take before questions and requests about animals arise.