

§5.363

premises. The lease shall permit entry and inspection only if the project owner has received a signed, written complaint alleging (or the project owner has reasonable grounds to believe) that the conduct or condition of a pet in the dwelling unit constitutes, under applicable State or local law, a nuisance or a threat to the health or safety of the occupants of the project or other persons in the community where the project is located.

(b) *Emergencies.* (1) If there is no State or local authority (or designated agent of such an authority) authorized under applicable State or local law to remove a pet that becomes vicious, displays symptoms of severe illness, or demonstrates other behavior that constitutes an immediate threat to the health or safety of the tenancy as a whole, the project owner may place a provision in tenant leases permitting the project owner to enter the premises (if necessary), remove the pet, and take such action with respect to the pet as may be permissible under State and local law, which may include placing it in a facility that will provide care and shelter for a period not to exceed 30 days.

(2) The lease shall permit the project owner to enter the premises and remove the pet or take such other permissible action only if the project owner requests the pet owner to remove the pet from the project immediately, and the pet owner refuses to do so, or if the project owner is unable to contact the pet owner to make a removal request. The lease may not contain a provision relieving the project owner from liability for wrongful removal of a pet. The cost of the animal care facility shall be paid as provided in §5.363.

(3) The project owner may place a provision in tenant leases permitting the project owner to enter the premises, remove the pet, and place the pet in a facility that will provide care and shelter, in accordance with the provisions of §5.363. The lease may not contain a provision relieving the project owner from liability for wrongful removal of a pet.

24 CFR Subtitle A (4-1-05 Edition)

§5.363 Housing programs: Protection of the pet.

(a) If the health or safety of a pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet, the project owner may contact the responsible party or parties listed in the pet registration required under §5.350(d)(1)(iii).

(b) If the responsible party or parties are unwilling or unable to care for the pet, or the project owner, despite reasonable efforts, has been unable to contact the responsible party or parties, the project owner may contact the appropriate State or local authority (or designated agent of such an authority) and request the removal of the pet.

(c) If there is no State or local authority (or designated agent of such an authority) authorized to remove a pet under these circumstances and the project owner has placed a provision in the lease agreement (as described in §5.360(c)(2)), the project owner may enter the pet owner's unit, remove the pet, and place the pet in a facility that will provide care and shelter until the pet owner or a representative of the pet owner is able to assume responsibility for the pet, but not longer than 30 days.

(d) The cost of the animal care facility provided under this section shall be borne by the pet owner. If the pet owner (or the pet owner's estate) is unable or unwilling to pay, the cost of the animal care facility may be paid from the pet deposit, if imposed under the pet rules.

PET OWNERSHIP REQUIREMENTS FOR PUBLIC HOUSING PROGRAMS

§5.380 Public housing programs: Procedure for development of pet rules.

PHAs that choose to promulgate pet rules shall consult with tenants of projects for the elderly or persons with disabilities administered by them with respect to their promulgation and subsequent amendment. PHAs shall develop the specific procedures governing tenant consultation, but these procedures must be designed to give tenants (or, if appropriate, tenant councils) adequate opportunity to review and comment upon the pet rules before

they are issued for effect. PHAs are solely responsible for the content of final pet rules, but must give consideration to tenant comments. PHAs shall send to the responsible HUD field office, copies of the final (or amended) pet rules, as well as summaries or copies of all tenant comments received in the course of the tenant consultation.

Subpart D—Definitions for Section 8 and Public Housing Assistance Under the United States Housing Act of 1937

AUTHORITY: 42 U.S.C. 1437a and 3535(d).

SOURCE: 61 FR 5665, Feb. 13, 1996, unless otherwise noted.

§ 5.400 Applicability.

This part applies to public housing and Section 8 programs.

[61 FR 5665, Feb. 13, 1996, as amended at 65 FR 16715, Mar. 29, 2000]

§ 5.403 Definitions.

Annual contributions contract (ACC) means the written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Applicant means a person or a family that has applied for housing assistance.

Disabled family means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

Displaced family means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Elderly family means a family whose head, spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are

at least 62 years of age living with one or more live-in aides.

Family includes but is not limited to:

(1) A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

(2) An elderly family;

(3) A near-elderly family;

(4) A disabled family;

(5) A displaced family;

(6) The remaining member of a tenant family; and

(7) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the persons;

(2) Is not obligated for the support of the persons; and

(3) Would not be living in the unit except to provide the necessary supportive services.

Near-elderly family means a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Person with disabilities:

(1) Means a person who:

(i) Has a disability, as defined in 42 U.S.C. 423;

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability as defined in 42 U.S.C. 6001.