



## **Animals and the Fair Housing Act**

Under the Fair Housing Act, tenants and homeowners are allowed to have service animals and emotional support/comfort/assistance animals in their homes as well as in common areas and places of public accommodation in a housing complex. This right extends to prospective tenants or homeowners and to guests of tenants or homeowners.

### **The Fair Housing Act**

The Fair Housing Act (FHA) prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability. The FHA says discrimination includes “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person [with a disability] equal opportunity to use and enjoy a dwelling.”

A **reasonable accommodation** is “a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.”

Courts have found that an exception to a “No Pets” policy is reasonable accommodation when the person with the disability can show a link between his/her disability and the need for the animal.

### **Who is Protected under the Fair Housing Act?**

The FHA protects persons with disabilities from housing discrimination. It protects the tenant or homeowner with a disability as well as people with disabilities who are associated with a tenant or homeowner, such as guests.

The FHA uses the term “handicap” instead of “disability.” Handicap is defined as “a physical or mental impairment which substantially limits one or more of such person’s major life activities.” Examples include:

- Visual impairments
- Auditory impairments
- Mobility impairments
- AIDS, HIV
- Epilepsy
- Mental illness
- Cognitive disability
- Past substance use disorder
- Traumatic brain injury

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## What Types of Housing are Covered by the FHA?

The FHA defines “dwelling” as:

- “Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families,” or
- “Any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.”

The term “dwelling” has been broadly interpreted. Examples include:

- Single and multi-family housing (homes, apartments, condominiums)
- Nursing homes
- Group homes
- Student housing
- Shelters
- Mobile homes
- Assisted-living housing

Types of housing NOT covered include:

- Buildings with four or fewer units where the landlord occupies one of the units
- Single-family housing sold or rented without a real estate broker
- Private clubs

Hotels and motels are not considered dwellings under the FHA, but they are considered places of public accommodation under the Americans with Disabilities Act (ADA). That means service animals that are dogs or miniature horses must be permitted in hotels and motels, but emotional support/comfort/assistance animals may be excluded.

### **Service Animals vs. Emotional Support Animals**

A service animal is any animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The service animal learns to recognize and respond to the person’s environment and actions. Under the ADA, only dogs and miniature horses are recognized as service animals.

An emotional support/comfort/therapy/assistance animal is any animal that provides emotional support, well-being, or companionship. It is not individually trained. Assistance animals are not limited to dogs and can be any species of animal.

**Service animals and emotional support/comfort/assistance animals are treated the same under the Fair Housing Act. Both are allowed in your home.**

Throughout this document, we use the term “assistance animal” to refer to service animals, therapy animals, support animals, and comfort animals.

## **What is a Reasonable Accommodation in General?**

To qualify for a reasonable accommodation:

- Tenant must have a disability, and
- The reasonable accommodation must be necessary to give the tenant an equal opportunity to use and enjoy the dwelling.

Some examples of reasonable accommodations in housing include:

- Accommodating behaviors directly related to a person's mental disability;
- Providing an assigned parking spot near the unit of a person with a mobility disability;
- Allowing a variance of a rule about fence height to accommodate the needs of a child with autism; and
- Placing a mailbox in an accessible location.

## **Reasonable Accommodations for Animals**

Your assistance animal is permitted in your home and the common areas and places of public accommodation in a housing complex. This applies if you are:

- A tenant or homeowner;
- A prospective tenant or homeowner; or
- A guest of a tenant or homeowner.

In order to get an exception to a "No Pets" policy as a reasonable accommodation, a person with a disability **must show a link between his or her disability and the task the animal provides**. Examples include:

- Guiding individuals with a visual impairment;
- Alerting individuals who are hard of hearing;
- Providing protection or rescue assistance;
- Pulling a wheelchair;
- Alerting to impending seizures; and
- Providing emotional support for persons with a disability-related need for such support.

Landlords must allow an exemption to a "No Pets" policy for a tenant who has an assistance animal because of his/her disability, unless:

- The animal would create an undue burden;
- It would be a fundamental alteration of the service provided;
- The specific assistance animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation; or
- The specific assistance animal would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

By “specific assistance animal” we mean that a landlord cannot deny an exemption because of an assumption about the behavior of a certain type of animal. The landlord can only deny an exemption because of the behavior of the individual animal in question. For example, a landlord cannot refuse to permit a service dog that is a pit bull because she believes all pit bulls are aggressive. She must make a determination based on the behavior of the specific pit bull in question.

### **Requesting a Reasonable Accommodation from a Landlord**

Make the request in writing. State that you are a tenant with a disability and describe for the landlord how an accommodation would be useful. Include a note from your doctor or therapist explaining your need for the animal.

If it is not an undue burden or fundamental alteration, the landlord must grant the request.

### **When May My Landlord Ask Questions about My Disability?**

Generally, landlords may not ask questions about a disability of a tenant or potential tenant, unless the tenant or potential tenant is:

- Requesting an accommodation or modification,
- Applying for a housing program designated for persons with disabilities,
- Applying for a preference or priority for persons with disabilities, or
- Trying to qualify for an allowance that reduces rent because of a disability.

### **What May My Landlord Ask about My Disability?**

- If your disability is not readily apparent or known, your landlord may ask you to submit reliable documentation of a disability and your disability-related need for an assistance animal.
- If your disability is readily apparent or known but your disability-related need for the assistance animal is not, the landlord may ask you to provide documentation of the disability-related need for an assistance animal.
- Such documentation is sufficient if it establishes that you have a disability and that the animal in question will provide some type of disability-related assistance or emotional support.
- Landlords may not ask for access to medical records or detailed or extensive information and documentation related to your disability.
- If your disability and disability-related need for an assistance animal is readily apparent, landlords may not ask for documentation.

## **Am I Required to Pay a Pet Fee?**

No. An assistance animal is not a pet. The housing provider must waive any pet fees or pet deposits. But, if the animal causes damage, the tenant may be required to pay the repair costs.

## **For What Reasons Can My Request for an Accommodation be Denied?**

Landlords and managers may deny a request for an assistance animal if:

- It would pose a direct threat to the health or safety of others or cause substantial physical damage to the property of others, unless the threat can be eliminated or significantly reduced by a reasonable accommodation;
- It would pose an undue financial and administrative burden; or
- It would fundamentally alter the nature of the provider's operations.

## **What If My Request is Denied?**

The U.S. Dept. of Housing and Urban Development enforces the Fair Housing Act. Complaints of Fair Housing Act violations may be filed with the U.S. Department of Housing and Urban Development within one year of the incident. For more information visit [www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp](http://www.hud.gov/program_offices/fair_housing_equal_opp) or call 1-800-669-9777.

Complaints also may be filed with the Civil Rights Division of the Justice Department at [www.justice.gov/crt/how-file-complaint](http://www.justice.gov/crt/how-file-complaint).

You may file a complaint with the NC Human Relations Commission. The commission "provides services and programs aimed at improving relationships among all citizens of the state, while seeking to ensure equal opportunities in the areas of employment, housing, public accommodations, recreation, education, justice and governmental services." In addition, there are local Human Relations Commissions in Charlotte/Mecklenburg, Durham, Greensboro, Winston-Salem, and Orange County. Find contact information at [ncadmin.nc.gov/about-doa/divisions/human-relations-commission](http://ncadmin.nc.gov/about-doa/divisions/human-relations-commission).

If you have questions or concerns, visit Disability Rights NC's website at [www.disabilityrightsn.org](http://www.disabilityrightsn.org), or call us toll-free at 877-235-4210.

You may want to contact the Fair Housing Project of Legal Aid of North Carolina, which can provide information concerning your rights under the Fair Housing Act. Please visit [www.fairhousingnc.org](http://www.fairhousingnc.org), call 1-855-797-3247, or email [info@fairhousingnc.org](mailto:info@fairhousingnc.org).

## **Sample Letter to Landlord**

Date

Dear Name of Landlord/Housing Manager:

I am \_\_\_\_\_ and live in unit \_\_\_\_\_. I am a person with a disability, as defined under the Fair Housing Act. My disability limits my ability to \_\_\_\_\_.

I would like to request a reasonable accommodation of exempting me from the “No Pets” policy that is currently in place. My (service animal or emotional support animal) helps me to \_\_\_\_\_.

Please see the attached verification from my health care provider explaining how the accommodation would assist me with my disability.

I am asking that you modify your rules prohibiting pets to allow me to have a (service animal or emotional support animal). This reasonable accommodation to your “Not Pets” policy would provide me with full use and enjoyment of the housing unit as a person with a disability.

I look forward to hearing from you by (a date in the near future). Thank you for your consideration.

Sincerely,

Your Name

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Disability Rights North Carolina is a 501(c)(3) nonprofit organization headquartered in Raleigh. It is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Its team of attorneys, advocates, paralegals and support staff provide advocacy and legal services at no charge for people with disabilities across North Carolina to protect them from discrimination on the basis of their disability. All people with disabilities living in North Carolina are eligible to receive assistance from Disability Rights NC.

Contact us for assistance or to request this information in an alternate format.

**Disability Rights North Carolina**

3724 National Drive, Suite 100

Raleigh, North Carolina 27612

[www.disabilityrightsncc.org](http://www.disabilityrightsncc.org)

919-856-2195

877-235-4210 (toll free)

888-268-5535 (TTY)

919-856-2244 (fax)