Section 3 - Sample Provision Excerpt (Public Preview)

j. No pets are permitted on the patio or pool deck at any time.
k. Owners and Tenants must clean up after themselves, garbage is to be placed in the appropriate recyclable bin or garbage pail.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · FAIR HOUSING ACT (FHA) LIABILITY RISK

BOARD & COUNSEL REVIEW

Sec. 3 (p. 8): Pet restriction clause lacks mandatory statutory carveout for assistance and emotional support animals.

Statutory / Legal Reference: 42 U.S.C. § 3604(f)(3)(B) & 24 C.F.R. § 100.204 (Fair Housing Act - Assistance Animals) & HUD FHEO-2020-01

Statutory Comparison: Under federal Fair Housing Act regulations (42 U.S.C. § 3604(f)(3)(B), 24 C.F.R. § 100.204, and HUD Notice FHEO-2020-01), associations cannot apply pet restrictions, breed bans, weight limits, or pet fees/deposits to an individual with a disability who requires a service animal or emotional support animal.

CURRENT WORDING IN DOCUMENT:
j. No pets are permitted on the patio or pool deck at any time. k. Owners and Tenants must clean up after themselves, garbage is to be placed in the appropriate recyclable bin or garbage pail.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Provided, however, that these pet restrictions, breed prohibitions, weight limitations, and pet fees shall not apply to verified assistance animals, including service animals and emotional support animals required as a reasonable accommodation under the Fair Housing Act (42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204; HUD Notice FHEO-2020-01).