

SAMPLE POLICY: SERVICE ANIMALS



**Fair Housing
Partners of
Washington State**

Seventh Edition (January 2016)

Service Animals – Sample Policy

The Fair Housing Partners of Washington have developed this sample policy to assist you and your staff in dealing with issues involving service animals. This policy includes legal background as well as guidelines for use with applicants and residents who have service animals. We hope you will find this information helpful in your efforts to provide fair housing for all.

This free guidebook is available in CD format and online at www.kingcounty.gov/civilrights. The Fair Housing Partners have collaborated to create other resources for housing providers –

- Fair Housing in Washington State: Top 100 FAQs for Property Owners & Managers
- Reasonable Accommodations & Modifications for People with Disabilities
- Harassment & Retaliation
- Domestic Violence & Fair Housing
- A Guide to Fair Housing for Nonprofit Housing & Shelter Providers
- Fair housing posters (specific to each fair housing agency)

FAIR HOUSING PARTNERS OF WASHINGTON STATE

Washington State Human Rights Commission
King County Office of Civil Rights & Open Government
Seattle Office for Civil Rights
Tacoma Human Rights
Fair Housing Center of Washington
Northwest Fair Housing Alliance

This information does not constitute legal advice. The fair housing laws regarding service animals vary depending upon jurisdiction. Please consult with one of the fair housing agencies if you have questions about this topic.

AVAILABLE IN ALTERNATE FORMATS UPON REQUEST

Contact King County OCROG, 206-263-2446, TTY Relay: 711

Civil-Rights.OCR@kingcounty.gov

SERVICE ANIMAL POLICY

REASONABLE ACCOMMODATIONS

The federal Fair Housing Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Washington State Law Against Discrimination, and local fair housing laws require that housing owners and managers provide reasonable accommodations for applicants and residents who have disabilities. Reasonable accommodations are changes in rules, policies, practices, or services that are necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling. Allowing residents who have disabilities to live with their service animals is a reasonable accommodation.

Under fair housing laws, a person is considered to be disabled if s/he has a sensory, mental or physical condition that substantially limits one or more major life activities (such as walking, seeing, hearing, working, etc.). The state law definition includes disabilities that are temporary or permanent, common or uncommon, mitigated or unmitigated. Some people have a disability-related need for service animals to assist them with the functional limitations caused by their disabilities.

Service animals are NOT pets.

HOW DO FAIR HOUSING LAWS DEFINE SERVICE ANIMALS?

- **Fair Housing Act (FHA) and Section 504 of the Rehabilitation Act (504)**
These laws do not specifically define “assistance animals”; however, they require the provision of “reasonable accommodations” for people with disabilities, which include assistance animals. For the purposes of compliance with the FHA and 504, HUD has defined assistance animals as:

“animals that serve as a reasonable accommodation for people with disabilities by assisting those individuals in some identifiable way by making it possible for them to make more effective use of their housing. Such animals are often referred to as ‘service animals, assistive animals, support animals, or therapeutic animals’ and may include any animal that actually performs tasks or a service for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with hearing impairments to sounds, pulling a wheelchair, fetching items or providing emotional support to people with mental disabilities.”
- **Washington Law Against Discrimination**
“Service animal” means an animal that is trained for the purpose of assisting or accommodating a sensory, mental or physical disability of a person with a disability.
Note: For housing purposes, the federal FHA definition overrides this state law.

- **King County Open Housing ordinance** (only in unincorporated King County)
"Service or assistive animal" as a dog guide, signal or hearing dog, seizure response dog, therapeutic companion animal or other animal that does work, performs tasks or provides medically necessary support for the benefit of an individual with a disability.
- **Seattle Unfair Housing Practices ordinance** (City of Seattle only)
"Service animal" means an animal that provides medically necessary support for the benefit of an individual with a disability.

WHAT IS A SERVICE ANIMAL?

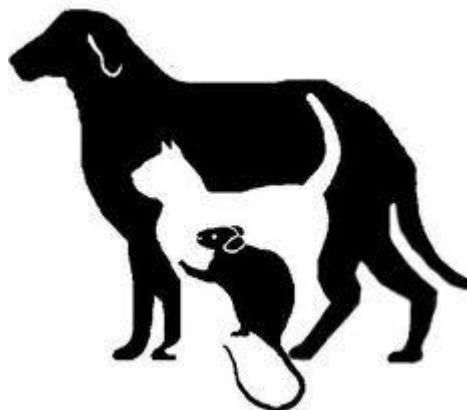
Service animals assist people with disabilities to deal with the effects of their disabilities. The most common service animals are dogs, but they may be other species (a cat, bird, hamster, rabbit, pot-bellied pig, reptile, etc.). Service animals may be any breed, size or weight. Some, but not all, service animals wear special collars or harnesses. Service animals are not required to have special licenses, to be certified by any government or training agency, or to have any visible identification.

NOTE: In some situations, a person with a disability may require more than one service animal, where each animal provides a different type of assistance. For example, an individual may need both a hearing dog and a seizure alert animal.

NOT ALL ANIMALS CAN BE SERVICE ANIMALS!

In Washington state, it is illegal to possess any wild animal that naturally lives in the state, such as squirrels, crows or deer. It is also illegal to possess dangerous wild exotic animals:

RCW §16-30: No person may possess ... a potentially dangerous animal, including but not limited to large cats, wolves, bears, hyenas, non-human primates, ... and various species of venomous snakes.



WHAT DO SERVICE ANIMALS DO?

Service animals perform various tasks and provide services for people with disabilities, who can train their own service animals. Here are some examples:

Guide – serves as a travel aide for a person who is legally blind.

Hearing or signal – alerts a person with hearing loss or deafness when a sound occurs, such as an alarm or a knock on the door.

Mobility assistance – helps a person who has a mobility or health disability. They may carry, fetch, open doors, ring doorbells, activate elevator buttons, pull a wheelchair, steady a person while walking, help someone get up after a fall, etc.

Seizure response – warns a person of an impending seizure, or provides aid during a seizure, such as going for help or standing guard over the person.

Companion or Therapeutic assistance – aids people with cognitive or psychological disabilities, ameliorating the effects of a mental or emotional disability, and allowing them to live more independently. These animals may perform tasks, such as: bring an emergency phone during a crisis, dial 911, turn on lights in a dark room, bring medications, bark for help in an emergency, assist a person with panic disorder in coping with crowds, etc. According to HUD, “emotional support animals provide very private functions for people with mental and emotional disabilities. Specifically, emotional support animals by their very nature, and without training, may relieve depression and anxiety, and help reduce stress-induced pain in people with certain medical conditions affected by stress.”

SERVICE ANIMAL POLICY – GUIDELINES FOR STAFF

REASONABLE ACCOMMODATION PROCESS

When an applicant or resident with a disability makes an accommodation request, housing management will consider the request promptly, and grant it when reasonable. When someone inquires about living with a service animal, follow our reasonable accommodations policy.

DETERMINE WHETHER YOU NEED VERIFICATION

- ❖ If the person’s disability is obvious or otherwise known to you, and if the need for the service animal is also apparent, do not request any additional information about the disability or the need for the accommodation. For example, a blind person with a guide dog does not need to verify his disability or need for the dog.
- ❖ If the disability is known, but the need for the accommodation is not apparent, request only information necessary to evaluate the disability-related need for the accommodation. For example, if you know a resident has had a stroke and s/he wants to have an assistance dog, request documentation of the disability-related need for the animal.
- ❖ If neither the disability nor the accommodation need is clear, ask for proof of both. For example, if someone with no obvious disability asks to live with a service animal, request written verification both that the person has a disability as defined under fair housing law and that there is a disability-related need for the animal.

WHO MAY PROVIDE VERIFICATION

When verification of disability status or disability-related need is appropriate, you can require that the individual provide written verification from a doctor or other medical professional, or other qualified third party who, in their professional capacity, has knowledge about the person’s disability and the need for reasonable accommodation. Written verification should be provided by someone with sufficient knowledge and training to verify that the applicant or resident meets the fair housing definition as a person with a disability, and that there is a disability-related need for a service animal. **Remember, you cannot require someone to provide details about his or her disability.**

When someone requests to live with a service animal, management will provide a prompt written response (see sample letters).

TENANCY RULES FOR SERVICE ANIMALS

If residents are allowed to have household pets –

- do not charge a pet deposit or fee
- do not place limitations on the size, weight, and type of service animals
- both service animals and pets can be required to meet the same reasonable behavior rules
- we require service dogs or cats to be licensed (if required in the municipality and/or if you require licensing of pets)
- a household may have a service animal and also a pet

If there is a “no pets” rule –

- we will allow service animals
- do not charge a pet deposit or fee
- do not place limitations on the size, weight, and type of service animals
- we apply reasonable behavior rules to service animals
- we require service dogs or cats to be licensed (if required in the municipality)

Charge the same general cleaning or damage deposit for someone who has a service animal that we charge for all residents. A resident with a service animal is liable for any damage the animal causes.

ANIMAL CARE AND SUPERVISION

The resident has the responsibility to care for and supervise the service animal. The resident should maintain full control of the animal at all times. This means that while the animal is in common areas, it should be on leash, harnessed, in a carrier, or otherwise in the direct control of its owner. When around other people or animals, the service animal should be well behaved (no jumping, snarling, nipping, excessive barking). The resident is responsible for the safe removal of animal waste products.

REMOVAL OF A SERVICE ANIMAL

If a service animal is unruly or disruptive (aggressively jumping, nipping, etc.), the manager may ask the resident remove the animal from a common area. If the animal's inappropriate behavior happens repeatedly, the manager may request that the resident not bring the animal into common areas until the resident has taken steps to mitigate the behavior (such as refresher training), or in serious situations, ask that the animal be removed from the residential premises.

WHAT ABOUT OTHERS WHO ARE AFRAID OF OR ALLERGIC TO ANIMALS?

An allergy or fear of dogs are not valid reasons for denying access or refusing services to people who use service animals. A fear of or minor allergy to dogs or other animals is not a disability, so management does not need to “accommodate” in those situations. In rare cases, a person’s allergy may be so severe that animal contact may cause respiratory distress. In those situations, the allergic person may request an accommodation, such as keeping the animal and the allergic person separate as much as is possible.

SENSITIVITY AND AWARENESS

Management will ensure that staff is properly trained about service animal policies, including the following rules –

- Allow a service animal to accompany the resident at all times and everywhere in the community except where animals are prohibited for safety reasons (such as in a pool or sauna).
- Do not separate or attempt to separate a resident from the service animal.
- Do not pet or talk to a service animal when it is working – this distracts the animal from its tasks.
- Do not feed a service animal, which may have specific dietary requirements.
- Unusual food or food at an unexpected time may cause the animal to become ill.
- Do not deliberately startle a service animal or distract it by making noises, such as barking, whistling, etc.
- Be aware that many people with disabilities do not care to share personal details.
- If other residents complain that they are not allowed pets and want to know why an exception was made, state that your community complies with the fair housing laws. You can also refer your residents to the community’s accommodation policy.

RESOURCES & QUESTIONS

- **Fair housing agencies** (see chart on the last page)
- **Americans with Disabilities Act Information Line**, U.S. Dept. of Justice
800-514-0301, TTY 800-514-0383, www.ada.gov
www.usdoj.gov/crt/ada/animal.htm
- **Delta Society National Service Dog Center**
425-679-5500, deltasociety.org

SERVICE ANIMAL POLICY – GUIDELINES FOR RESIDENTS

REQUEST FOR A SERVICE ANIMAL ACCOMMODATION

If you need to live with a service animal because of your disability, make a request to your landlord or manager for a reasonable accommodation. It is best to submit these requests in writing, but verbal requests are acceptable.

VERIFICATION OF YOUR DISABILITY AND NEED FOR A SERVICE ANIMAL

You may be asked to provide written verification that you have a disability and that the accommodation of a service animal is necessary to give you an equal opportunity to use and enjoy your housing. If your landlord or manager asks for this verification, you should obtain a signed letter from your doctor or other medical professional, or other qualified third party who, in their professional capacity, has knowledge about your disability and your need for a reasonable accommodation. You do not have to provide details about your disability or about the specific tasks the service animal performs. (Sample letters are attached)

ANIMAL CARE AND SUPERVISION

You are responsible for the care of your service animal. You must supervise your animal and maintain full control of it at all times. This means that while the animal is in common areas, it is on a leash, harnessed, in a carrier, or otherwise in your direct control. When in the presence of others, the animal is expected to be well behaved (not jumping on or nipping at people, not snarling or barking, etc.).

You are responsible for the proper disposal of animal waste –

- Carry equipment to clean up your service animal's feces whenever the animal is in the common areas.
- Properly dispose of animal waste and/or litter.
- If you need assistance with cleanup, arrange for such help through family, friends or advocates.

PROBLEMS

If you believe rental staff is not handling your request for a service animal properly, contact {insert your property management contact information here}.

SAMPLE LETTER

REQUEST FOR REASONABLE ACCOMMODATION

Applicants or residents may use a letter with this type of language when requesting to live with a service animal as a reasonable accommodation. Use of this form is not required, but it is recommended that you document accommodation requests in writing.

Date: _____

To: {Name and address of landlord or manager}

I have a disability as defined by the fair housing laws. I use a service animal to assist me with the functional limitations related to my disability. My service animal enhances my ability to live independently, and to use and enjoy my housing fully.

Type of service animal (dog, cat, etc.): _____

As an accommodation for my disability, I request that you:

_____ waive the "no pet" policy

_____ waive the pet weight/height restrictions

_____ waive pet deposit or fees

_____ other: _____

I have attached a letter from a medical professional or other qualified third party who, in their professional capacity, has knowledge about my disability and my need for a reasonable accommodation. The letter verifies that I have a disability as defined in the fair housing laws, and that I have a disability-related need for a service animal.

Please advise me of your response to my request for an accommodation by {date}.
(sign letter)

Print your name, address and telephone number

Guidance for Health Care and Qualified Professionals: Verifying Reasonable Accommodation and Modification Requests

Dear Health Care Provider or Qualified Individual:

Fair housing laws allow an individual who has a physical, mental, or sensory disability to request that a housing provider grant him/her a reasonable accommodation (a change in rules, policies, or practices) or reasonable modification (a structural change to a dwelling). Once an applicant or resident has made a request, a housing provider may ask that the person obtain written verification of disability and/or verification of the need for the accommodation, if not obvious or known.

Verification of disability or need for an accommodation may come from a medical professional, peer support group, non-medical service agency, or a reliable third party who is in a professional position to have knowledge about the person's disability and/or need for accommodation. The verification should state that the person meets the fair housing definition of disability, and that the requested accommodation is necessary and is related to the disability.

For the purposes of requesting a reasonable accommodation or modification in housing in Washington state, **disability is defined as “the presence of a sensory, mental, or physical impairment that: (i) is medically cognizable or diagnosable or (ii) exists as a record or history or (iii) is perceived to exist whether or not it exists in fact.”** Additionally, “a disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated ... or whether or not it limits any other activity....” (RCW 49.60.040)

The verification letter should include the following items:

- I. **Qualification of person** writing the verification letter.
- II. **Nature of relationship** the professional has with the person making the request.
- III. **Statement that** the person has a disability that meets the state definition above.
Important Note: Revealing a diagnosis puts an individual at risk of additional discrimination. Before naming a specific diagnosis or category of disability, obtain the person's informed consent.
- IV. **Describe how the accommodation or modification requested is necessary** to afford the person the equal opportunity to access housing, maintain housing, or for full use and enjoyment of the housing or housing related service. Because housing providers must make only those accommodations or modifications that are necessary, be sure to use words like: “necessary,” “essential,” “prescribed”; when describing that the condition creates a need for the accommodation or modification. The role of the verifier is to establish that the need derives from the disability.

Sample Verification for Reasonable Accommodation / Modification

Re: John Smith’s request to live with a service/assistance animal.

Please accept this correspondence as verification that:

I am a licensed medical doctor. I have treated John Smith ~~since~~ May 2013 for a disability condition. Mr. Smith is a person with a disability as defined by the Washington Law Against Discrimination (RCW 49.60) and other fair housing laws.

In my professional opinion, permitting Mr. Smith to live with his service dog Snoopy is necessary for him to access and fully use and enjoy his home.

Please approve John Smith’s request for a service animal.

Signature: Dr. Leon Jones
Printed Name: Dr. Leon Jones
Professional Title: Medical Doctor
Name of Clinic, Hospital, Agency, etc.: Seattle Hospital
Address: 500 First Avenue, Seattle, WA 98101
Phone Number: 206-555-1212
Fax Number: 206-555-1234
Email: drjones@seattlehospital.com
Date: January 14, 2016

SAMPLE LETTER

MANAGEMENT RESPONSE TO ACCOMMODATION REQUEST

Management staff may use this type of letter when responding to a request from a resident who wants to live with a service animal.

Date:

Dear *{resident name}*:

We have received your request for a reasonable accommodation. We understand you want to live with a service animal in our housing community. We also received the letter from your *{service provider}* confirming that you have a disability as defined by fair housing laws and that you have a disability-related need for the animal.

We agree to your request for your service animal live in your apartment. We will waive our “no-pet” policy, waive our pet weight/height restrictions, waive our pet deposit/pet-related fees, and *{insert other agreements}*.

Our rules require residents who have animals to follow noise regulations, to dispose of animal waste properly, and to ensure that the animals do not cause property damage. As noted in your rental agreement, you will be responsible for any damage caused by your animal.

We welcome you and your animal to our community!

Name

Title

Address and telephone number

APPENDIX

LOCAL ORDINANCES THAT BAN SPECIFIC BREEDS

Under RCW 16.08, the state regulates "dangerous dogs" and imposes requirements and restrictions on the owners of such dogs. This law defines and makes a distinction between "dangerous dogs" (which are regulated under RCW 16.08) and "potentially dangerous dogs" (which are regulated by locally-adopted ordinances).

Some cities have adopted ordinances that completely ban the ownership of particular breeds including pit bulls, wolf-hybrids, and others. In the case of breed-specific ordinances, local governments should be able to show that the breed has some unique traits and characteristics that pose a greater threat of serious injury or death to humans than other breeds. Breed-specific ordinances must also clearly define the particular breed being regulated so that owners or potential owners are given sufficient notice of requirements and violations.

Canine Good Citizen Certificate Exemption – Some cities, such as Pasco and Oak Harbor, provide exemptions for potentially dangerous and breed-specific dogs that receive a certificate from passing the American Kennel Club's Canine Good Citizen Program.

Service Dog Exemption – The Washington State Human Rights Commission recommends that language be included in breed-specific dangerous dog ordinances that provides exceptions, exemptions, or waivers for trained guide dogs or service dogs used by people with disabilities (see RCW 49.60.215). A trained guide dog or service animal must be safe and under the control of the user. Prohibiting specific breeds could be considered too limiting for people with disabilities.

INSURANCE ISSUES

Some insurance carriers refuse to cover a rental property, substantially increase the cost of coverage, or adversely change the terms of their policies if a person with a disability resides in the rental dwelling with an assistance animal that is of a breed of dog that the carrier considers dangerous.

HUD and the U.S. Department of Justice have issued a joint statement on “Reasonable Accommodations Under the Fair Housing Act”. This statement notes that an accommodation is unreasonable if it imposes an undue financial and administrative burden on a housing provider's operations. If an insurance carrier would cancel, increase policy costs, or adversely change policy terms because of the presence of a certain breed of dog or a certain animal, HUD states that this imposes an undue financial and administrative burden on the housing provider.

A housing provider should substantiate any claim regarding the potential loss of or adverse change to the insurance coverage by verifying such a claim with the insurance company directly and considering whether comparable insurance, without the restriction, is available in the market. If there is evidence that an insurance provider has a policy of refusing to insure any housing that has animals, without exception for assistance animals, the insurance provider may be violating federal civil rights laws prohibiting discrimination based upon disability.

For more information, see:

- *“Insurance Policy Restrictions as a Defense for Refusals to Make a Reasonable Accommodation”*, www.fairhousing.com/include/media/pdf/insuranceguidance.pdf
- *“Reasonable Accommodations Under the Fair Housing Act”*, www.hud.gov/offices/ftheo/library/huddojstatement.pdf

FAIR HOUSING AGENCIES IN WASHINGTON STATE

FAIR HOUSING ENFORCEMENT AGENCIES

| | | | | |
|--|---|--|--|---|
| U.S. Dept. of Housing & Urban Development Fair Housing 909 First Avenue Suite 205 Seattle, WA 98104-1000 | Washington State Human Rights Commission 711 S. Capitol Way Suite 402 Olympia, WA 98504-2490 | King County Office of Civil Rights & Open Government 401 Fifth Avenue Suite 215 Seattle, WA 98104-1818 | Seattle Office for Civil Rights 810 Third Avenue Suite 750 Seattle, WA 98104-1627 | Tacoma Human Rights 747 Market Street Room 1044 Tacoma, WA 98402-3779 |
| 206-220-5170 800-877-0246 TTY 206-220-5185 Fax 206-220-5447 | 360-753-6770 800-233-3247 in WA TTY 800-300-7525 Fax 360-586-2282 | 206-263-2446 TTY Relay: 711 Fax 206-296-4329 | 206-684-4500 TTY 206-684-4503 Fax 206-684-0332 | 253-591-5162 TTY Relay: 711 |
| www.hud.gov/local/sea/seafhome.html | www.hum.wa.gov | www/kingcounty.gov/civilrights | www.seattle.gov/civilrights | www.cityoftacoma.org/humanrights |
| <u>Protected Classes</u> Race Color National Origin Religion Sex Disability Familial Status | <u>Protected Classes</u> Race Color National Origin Creed Sex Disability Familial Status Marital Status Sexual Orientation Gender Identity Veteran/Military Status | <u>Protected Classes</u> Race Color National Origin Religion Gender Disability Familial Status Marital Status Sexual Orientation Gender Identity Age Section 8 Ancestry | <u>Protected Classes</u> Race Color National Origin Religion/Creed Sex Disability Parental Status Marital Status Sexual Orientation Gender Identity Age Section 8 Political Ideology Veteran/Military Status | <u>Protected Classes</u> Race Color National Origin Religion Sex Disability Familial Status Marital Status Sexual Orientation Gender Identity Age Ancestry Veteran/Military Status |
| File within 1 year <u>Jurisdiction:</u> United States | File within 1 year <u>Jurisdiction:</u> Washington state | File within 365 days <u>Jurisdiction:</u> Unincorporated King County | File within 1 year <u>Jurisdiction:</u> City of Seattle | File within 1 year <u>Jurisdiction:</u> City of Tacoma |

FAIR HOUSING ADVOCACY, EDUCATION & OUTREACH ORGANIZATIONS

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| <u>In Western Washington</u> Fair Housing Center of Washington 1517 S. Fawcett Avenue, Suite 250 Tacoma, WA 98402 253-274-9523, 888-766-8800 (toll free), Fax 253-274-8220 www.fhcwashington.org | <u>In Eastern Washington</u> Northwest Fair Housing Alliance 35 West Main Avenue, Suite 250 Spokane, WA 99201 509-325-2665, 800-200-FAIR (in 509 area code) Fax 509-325-2716 www.nwfairhouse.org |
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RETALIATION: Fair housing laws prohibit retaliation – an act of harm by anyone against a person who has asserted fair housing rights (by making an informal discrimination complaint, filing a civil rights complaint, or being otherwise involved in an investigation).

Fair housing laws are subject to change. The federal Fair Housing Act, state and local fair housing laws exempt certain housing from coverage. For questions, contact each agency concerning the laws that agency enforces.



SECTION 8 ORDINANCE ENFORCEMENT

In Washington state, the following local governments enforce local ordinances that prohibit housing discrimination based on participation in the Section 8 Program or similar government-funded housing subsidies:

- **Unincorporated King County** -- Office of Civil Rights & Open Government, 206-263-2446
Civil-Rights.OCR@kingcounty.gov
www.kingcounty.gov/civilrights
- **City of Seattle** -- Seattle Office for Civil Rights, 206-684-4500
www.seattle.gov/civilrights
- **City of Bellevue** -- Code Compliance, 425-452-4570
codecompliance@ci.bellevue.wa.us
www.ci.bellevue.wa.us/reportproblem.htm
- **City of Kirkland** -- Code Compliance, 425-587-3225
codecompliance@ci.bellevue.wa.us
www.kirklandwa.gov/depart/planning/Code_Enforcement.htm
- **City of Redmond** -- Code Compliance, 425-556-2474
codeenforcement@redmond.gov
www.redmond.gov/Residents/CodeEnforcement/