

Frequently Asked Questions

What is multi-unit housing?

Multi-unit housing structures are structures containing 2 or more housing units.

http://quickfacts.census.gov/qfd/meta/long_HSG096200.htm

How much notice is required to give a tenant when Smoke-Free Addendum is implemented?

A violation of a Smoke-Free clause in a lease is like any other lease violation and property managers/owners should work with their usual legal counsel in adding and enforcing a smoke-free policy.

Notice must be given to the tenant in accordance with Iowa Code Chapter 562A, the Uniform Residential Landlord and Tenant Law.

What is grandfathering and what should be an IDPH contractor's recommendation?

A **grandfather clause** is a situation in which an old rule continues to apply to some existing situations, while a new rule will apply to all future situations. During the implementation phase of a smoke-free policy, current tenants may be offered a "grandfather" period. This time period can be determined by the property manager/owner but must comply with Iowa Code 562A.

A point to emphasize in your outreach to housing professionals is that their properties will not be included in the Smoke-Free Housing Registry until a grandfathered period has ended.

How would the property manager enforce the Smoke-Free policy?

Enforcement measures should be clearly described in the following: smoke-free policy, rental agreement, and the resident guidelines. Enforcement measures can be drafted at the discretion of the property manager.

Is it legal for a property manager/owner to adopt a smoke-free policy?

Yes. Similar to a landlord prohibiting a tenant from possessing a pet, or a keg of beer, property managers may prohibit smoking. In fact, the U.S. Dept. of Housing and Urban Development issued a notice regarding smoke-free policies in public housing (see attached). The notice strongly encourages Public Housing Authorities to implement smoke-free policies in some, or preferably all of their public housing units, that are not inconsistent with state or local rules and regulations. Further, Iowa Code 142D.5 provides that an owner, operator, manager, or other person having custody or control of an area otherwise exempt from the prohibitions of the Iowa Smokefree Air Act may declare the entire area as a nonsmoking place. This is not inconsistent with Iowa code 562A (the Uniform Residential landlord and tenant law), which does not prohibit a property manager from restricting tenant smoking in their apartment units.

What rights does a smoker have?

Please visit: <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2005.pdf> There is No Constitutional Right to Smoke.

Rather than "smoker rights," please consider the issue as the rights of tenants. A smoke-free

policy is not discriminatory as long as the policy is not used to target a protected class or minority and a building manager or owner maintains the lawful ability to restrict or prohibit smoking. If a property manager decides to implement a smoke-free policy, the property manager should take caution and “grandfather” those current tenants for a specified period as determined by their lawyer and/or following Iowa Code 562A. You may also refer to the Fair Housing Law:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights

Are assisted living properties considered exempt under the SFAA?

Assisted living is defined as part of the long-term care continuum. Under Code 142D.4 of the Iowa Smokefree Air Act, the following are exempt from the Act: “Private and semi-private rooms in long-term care facilities, occupied by one or more individuals, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under this chapter.” The definition of a long term care facility includes an assisted living facility found in Iowa Code 142D.2(12). However, an assisted living facility may declare the facility a no-smoking property according to Iowa Code 142D.5.

What happens if a property manager is trying to amend an existing lease but the tenant refuses to sign the amendment and continues to smoke?

This is a situation in which the property manager will work with her/his legal team to devise the proper route to continue. It is not the function of IDPH grantees to offer advice in property manager/tenant situations, contractors are not trained in nor have legal expertise. However, it is the role of the IDPH contractor to supply materials regarding Smoke-Free housing and to offer technical assistance in the actual implementation of voluntary Smoke-Free housing policy.

Can single family rental homes be entered into the Smoke-Free Housing Registry?

Yes, any rental property can be entered into the Registry.

Can properties that already have Smoke-Free housing policy that has at least one 100 % SF building be entered into the Registry?

Yes, any property that is in your service area and has developed SF housing policy (that has at a minimum 100 % SF building) may have their property entered into the SF Housing Registry. However, please consider this as an opportunity to offer technical assistance to that property manager and make sure that all their questions are answered, all policy options are discussed and that they are aware of the signage that is available. Depending on your contract funds, you may also be able to offer free signage.

Is the low-income multi-unit complex list listed on the Community Partnership or CTG contractor webpages a complete list of all properties?

No, that list may not be all inclusive, however those properties are the minimum that must be contacted and assessed through the CTG contracts. Community Partnerships may contact any property that they choose to, though in counties where there are CTG contractors, CPs should not contact any properties on the above mentioned list.

Only Community Partnerships that are working on voluntary Smoke-Free Housing policy change are required to use the assessment and other materials.

Community Partnership staff must enter all assessment results into the SurveyMonkey prepared for that purpose.

CTG local contractors must enter all properties that have or adopt SF Housing policy into the SurveyMonkey. If properties do not have SF Housing policy, CTG contractors just need to follow their reporting rules through the CTG. If that contractor wishes to pass on information they can either enter all properties they have assessed into the SurveyMonkey or, if a property does not adopt SF policy change, send on the assessment information to Sieglinde Prior at Sieglinde.prior@idph.iowa.gov.

Some properties that an IDPH contractor visits may not have the correct Iowa Smokefree Air Act signage or none at all. What is our role when we find properties without the right signage in the appropriate places?

CTG local contractors – If a CTG IDPH contractor finds a business does not have the right signage or no signage posted, that contractor should notify the Division of Tobacco Use Prevention and Control immediately. The contractor may also ask the property manager/owner to visit the SFAA website or call 888-944-2247.

To submit a complaint:

- Visit the SFAA site at <http://www.iowasmokefreeair.gov/>
On the left-hand side you will find “Submit a Complaint”.
Click on this and follow the instructions. It takes just a couple of minutes and the Division can then follow-up with our protocol.
Please make sure to write all details down (when, where, what was missing, etc.) to ensure that all needed information is collected.

The Division has prepared fact sheets including one on Multi-Unit Housing. You can find it here: http://www.iowasmokefreeair.gov/common/pdf/facts/saa_multiunit.pdf

The Division has offered a sample lease addendum from a national resource, which can be accessed through the CP or CTG contractor site. However, here is another example of enforcement from an actual property lease:

SMOKING. Absolutely no smoking (including hookahs) is allowed in any Room, Unit or Building. \$50.00 fee for first complaint. \$100.00 fee for second and each subsequent complaint. More

than two complaints within the lease period may result in the termination of your tenancy. However, Landlord reserves the right to give the statutory notice for violation of the Agreement after any complaint. Units that have a smoking violation are required to show evidence of smoke damage restorative treatment on the carpet cleaning receipt upon move out. Smoking outside the Building must not disturb other tenants. Roomers who smoke outside of the Building must dispose of all smoking material (butts, empty packs etc.) in safe, closeable and appropriate containers. Improper disposal will result in a \$50 fee.