

Solutions to Seeping Secondhand Smoke (SHS)

For tenants/condominium owners:

- Ask the landlord or property manager to institute a 100% smokefree policy.
- Document how often SHS enters your home, the dates and time when noticeable, where it is seeping in, and how it affects you and your family.
- Contact other neighbors who may also be affected by seeping SHS.
- In a cordial, professional manner, contact the neighboring tenant/owner that is permitting smoking inside their unit, to explain the situation, and offer solutions. Smokers may not be aware that their SHS is seeping into your unit.
- Contact the landlord, management, or condo board for SHS seepage protection. Send notification and documents by registered mail, return receipt.
- Document any contacts with the neighbor and landlord. Document all doctor and hospital visits due to SHS exposure.
- If the situation is not resolved, contact your local health department to inspect your unit, verifying the SHS seepage.
- Explore legal solutions. Most leases contain provisions for breaches of nuisance, quiet enjoyment, and habitability. Common law may apply too.
- Most condominium association regulations contain provisions against nuisance and disturbance of neighbors.

Secondhand Smoke – The Facts

- SHS seeps through lighting fixtures, wall cracks, shared ventilation, around plumbing and doors, entering adjoining units.
- There is no known safe level of exposure to SHS, a known Class A human carcinogen. SHS aggravates and increases the risk of chronic diseases such as asthma, allergies, heart disease, lung cancer, pneumonia, emphysema, chronic bronchitis and diabetes (U.S. Centers for Disease Control). SHS increases the risk of miscarriage.
- Third-hand smoke is residual SHS that imbeds into upholstery, rugs, walls and other surfaces. New studies indicate that third-hand smoke may be more dangerous than SHS, since third-hand smoke does not dissipate, and continuously emits toxins.
- There is no constitutional right to smoke. Legal cases rule in favor of nonsmoking tenants and condominium owners, in New Jersey and in other jurisdictions.
- New Jersey's 2006 Smokefree Air Act (Act) prohibits smoking in any indoor public place and workplace, including a "public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling." NJSA 26:3D-57.
- In 2007, the New Jersey Department of Health adopted Smoke-Free Air Rules to clarify implementation of the Act, restating that common or shared areas of otherwise private buildings be smokefree. NJAC 8:6, NJDHSS response to comment #29, pg. 26.

Please note: The information in this brochure is not intended as, nor to be construed, or used, as legal advice, and should not be used to replace the advice of your legal counsel.

SMOKEFREE HOUSING



2010 INITIATIVE

For Multi-unit Residential Property Owners and Managers, Housing Industry Professionals, Tenants and Policy Makers

Explore and Learn about Smokefree Policies for Multi-unit Housing

Global Advisors on Smokefree Policy (GASP) is a 35-year old nonprofit resource center, dedicated to promoting smokefree air and tobacco-free lives.

Our Tobacco Control Policy & Legal Resource Center offers informational materials and technical assistance on emerging trends in tobacco control, including economic and health benefits of smokefree multi-unit housing.



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GASP is funded by the New Jersey Department of Health and Senior Services' Office of Tobacco Control, the U.S. Centers for Disease Control and private donations.

Benefits of Smokefree Housing

Economics – Reduce Operating Costs

- Lower rehab costs for smokefree units. No need to repair or replace carpeting, floors, fixtures, countertops or appliances damaged by burns or nicotine stains.
- Faster turnover time due to less preparation and repainting (one coat of paint vs. wash, prime and paint walls).
- Less wear 'n' tear on ventilation systems.
- Discount on property casualty insurance.
- Lower fire risk means reduced damages.
- "Green" building and HUD points applied to funding, and tax credits/incentives.

High Market Demand

- 80+% of New Jerseyans are nonsmokers; 70% of smokers want to quit.
- Fewer units vacate from smoke seepage.

Ensure Safety

- Smoking is lead cause of residential fires.
- Smoking near portable oxygen equipment has resulted in explosions and fires.
- National Fire Prevention Association recommends no smoking during home oxygen use in any portion of a residence.

Protect Health

- Protect family members and pets. SHS is especially hazardous for infants, children, the elderly, and people with chronic diseases, cancer, or breathing disabilities.
- Protect visiting social service workers and building maintenance workers from SHS.

Limit Liability

- Help avoid potential legal liability due to nonsmoking tenants/condo owners exposure to SHS.
- Tenants with pre-existing physical conditions aggravated by SHS may file complaints under the Fair Housing Act.

July 2009 HUD Policy Strongly Encourages Smokefree Policies

- On July 17, 2009, The U.S. Department of Housing and Urban Development (HUD) issued a policy memo strongly encouraging Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units.
- PHAs can create a 100% smokefree "house rule" or model lease policy. PHAs across the nation are participating. Contact GASP for customized technical assistance.



Support for Smokefree Policies

- National Apartment Association's *UNITS* December 2007 magazine article: "*Fortunately, what is in the best interest of resident health is also in the best interest of community owners' bottom lines.*"
- July/August 2009 issue of *Apartment Insight* magazine article: "*The trend towards smokefree apartments is expected to spread across the nation, driven by consumer demand.*"
- July 2009 *Newsweek Letter* to the Editor: "*Most important, [smokefree] means a healthier life for children.*"

How to Establish a Smokefree Policy in Multi-Unit Housing

- Landlords and property managers can create a 100% smokefree lease amendment, "house rule" or model lease policy. Call GASP for details.
- Select an implementation date, and notify tenants (example, 30 days) in writing; include an acknowledgement of the new policy, to be signed by the tenant and all occupants of the units. A phase-in period may be instituted for existing leases.
- If needed, establish an outdoor smoking-permitted area, at least 50 feet from the building, to prevent any recirculation of smoke indoors, through doors and windows, and provide receptacles.
- Post no-smoking signs at entrances, hallways, common areas, and outdoor areas to inform tenants and prospective tenants about the smokefree policy.
- When advertising vacancies, list the smokefree policy as an amenity, promoting a step for the building "Going Green". Nonsmokers and smokers are all welcome. It is only the behavior of smoking that is to be prohibited under the smokefree policy.
- Offer information on cessation programs to tenants who smoke and would like to quit. The NJ State Department of Health offers free and low-cost quit services at nj.quitnet.com. Contact GASP for details.
- For enforcement: use same warning and notice methods for other rules and policies, check during routine inspections, require tenants to be financially responsible to rehab unit to rentable condition.