

## 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 who 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 have provisions for breach of quiet enjoyment and habitability. Common law remedies of nuisance and trespass may also apply.
- Apply condo association regulations that contain provisions against nuisances and disturbance of neighbors.

## Second- and Third-hand Smoke

- SHS enters adjoining units: seeps through lighting fixtures, wall cracks, shared ventilation, around plumbing and doors.
- There is no known safe level of exposure to SHS, a Class A human carcinogen. SHS aggravates and increases the risk of chronic diseases including asthma, allergies, heart disease, pneumonia, emphysema, lung cancer, chronic bronchitis and diabetes. (2006 U.S. Surgeon General's Report).
- Third-hand smoke is residual SHS that is embedded in 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.
- SHS at home causes respiratory infections in young children, leading to 165,000 annual deaths globally (2010 *Lancet* study). It also increases the risk of miscarriage.
- There is no constitutional right to smoke. Legal cases ruled 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.

## SMOKEFREE HOUSING



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

#### 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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## Benefits of Smokefree Housing

### Economics – Reduce Operating Costs

- Lower rehab costs for smokefree units: Carpeting, floors, fixtures, countertops and appliances are not damaged from smoking burns and odors, nicotine stains.
- Faster turnover time to re-rent: apply one coat of paint vs. need to wash, prime and paint walls from nicotine stain, odors.
- Less wear 'n' tear on ventilation systems.
- Discount on property casualty insurance.
- Lower fire risk reduces property damage.
- Earn points for HUD and "Green" building funding; receive tax credits, incentives.
- Learn more at [njgasp.org/housing.htm](http://njgasp.org/housing.htm)

### High Market Demand

- 80+% of adult New Jerseyans don't smoke; 70% of smokers want to quit.
- Fewer units vacated from SHS seepage.

### Ensure Safety

- Smoking is the leading cause of elderly and multifamily residence fire deaths.
- National Fire Prevention Association recommends no smoking during portable oxygen use in any portion of a residence, to reduce the risk of explosions and fires.

### 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 from nonsmoking residents' exposure to SHS.
- Tenants with pre-existing physical conditions aggravated by SHS may file complaints under the Fair Housing Act.

## HUD Strongly Encourages Smokefree Housing Policies

- In 2009 and 2010, The U.S. Department of Housing and Urban Development (HUD) issued policy notices 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 January 2011 *UNITS* magazine: "Clouds of cigarette smoke" are "What's Out" for apartment living. *UNITS'* December 2007 issue says "*Fortunately, what is in the best interest of resident health is also in the best interest of community owners' bottom lines.*"
- *Apartment Insight* magazine's July/August 2009 issue: "*The trend towards smokefree apartments is expected to spread across the nation, driven by consumer demand.*"
- U.S. Surgeon General's *Call to Action to Promote Healthy Homes* protects residents.

## 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 more 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.
- Establish an outdoor smoking-permitted area on your property, at least 50 feet from the building, to prevent SHS from migrating indoors through doors, windows, outdoor intake vents, and provide receptacles.
- Post no-smoking signs at entrances, hallways, common areas and outdoor areas to inform tenants, visitors and workers about the smokefree policy.
- When advertising vacancies, list the smokefree policy as an amenity, promoting a "Going Green" step for the building. 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 smoking cessation programs to residents. The NJ State Department of Health offers free and low-cost quit services. Go to our website [njgasp.org/quit\\_tobacco.htm](http://njgasp.org/quit_tobacco.htm) to learn more.
- For enforcement: use same warning and notice methods for other rules and policies, check during routine inspections, require tenants to pay for rehabilitating their unit into a rentable condition, free of SHS.