

# A Smoke-Free World Is Getting Closer: In the Workplace, In Public Places & In the Home

Genesee County Health Department's  
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# Presenter

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# All truth passes through 3 stages

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1st: it is ridiculed.

2nd: it is violently opposed.

3rd: it is accepted as being self-evident.

# Remember when ...

- It was legal to dump raw sewage in lakes and streams.
- Then, scientific evidence showed this caused disease and death.
- Result: bans on dumping raw sewage.



# Remember when ...

- It was legal for restaurants to prepare, serve & store food however they wanted.
- Then, scientific evidence showed this caused food poisoning.
- Result: strict regulation of restaurant handling of food.



# Remember when ...

- It was legal for smokers to inflict secondhand smoke on non-smokers, including those with respiratory diseases
- Then, scientific evidence showed this caused disease and death.
- Result: strict regulation of smoking in most public places & workplaces.



Today the public health reasons for smoke-free environments are self-evident. The result: thousands of counties/cities are smoke-free

13 states are smoke-free, including restaurants & bars;

4 states are smoke-free, including restaurants, but not bars

12 countries are smoke-free

Today the public health reasons for smoke-free environments are self-evident.  
The result in Michigan:

10 counties and the City of Detroit are smoke-free, except in restaurants and bars.

3.4 million people, over 34% of state's population, are safer.

Public health policies are now directed at protecting persons of all ages from the health dangers of secondhand smoke.

These policies are directed at restricting smoking to protect non-smokers, not at outlawing smoking.

Why is there such concern about  
secondhand smoke in workplaces  
and public places?

# Secondhand Smoke ...

- Is a Group A carcinogen -- a substance known to cause cancer in humans for which there is no safe level of exposure.

National Institute for Environmental Health Sciences Report, issued May 15, 2000. U.S. Environmental Protection Agency report, issued July, 1993.

- At least 38,000 to 65,000 deaths annually in U.S. result from secondhand smoke-caused diseases.

U.S. Centers for Disease Control & Prevention, April 12, 2002 report; and National Institute for Environmental Health Sciences Report, May 15, 2000.

- Thousands more people suffer from chronic & debilitating conditions caused by these diseases, including the effects of emphysema, cancer, heart disease, stroke, chronic bronchitis, and asthma.

California Environmental Protection Agency report "Health Effects of Exposure to Environmental Tobacco Smoke,"

September, 1997.

# Secondhand Smoke ...

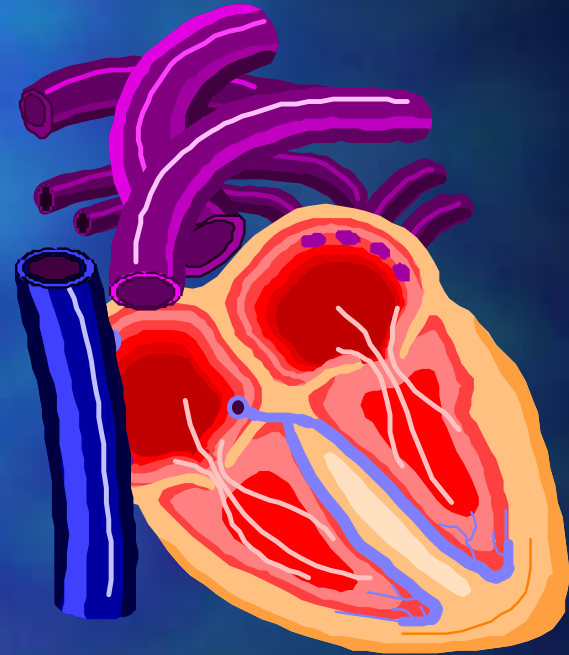
Contains over 4,000 compounds -- more than 40 of which are Group A carcinogens which cause cancer in humans or animals. Includes: ammonia, arsenic, benzene, cadmium, carbon monoxide, chromium VI, DDT, formaldehyde, hydrogen cyanide, lead, nickel, N-nitrosamines, sulfur dioxide, vinyl chloride. Also includes pesticide residues.



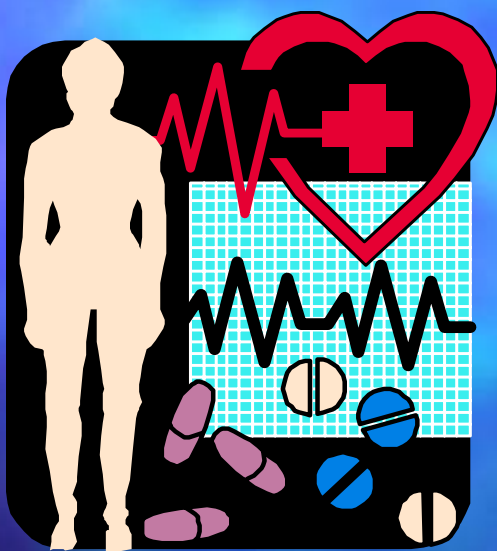
International Agency for Research on Cancer chart, 1986; U.S. Surgeon General's Report of 1989; California EPA Report, September, 1997.

# Secondhand Smoke ...

- Causes lung and other cancers, and heart disease.
- Is responsible for respiratory tract infections, such as pneumonia and bronchitis, especially in infants, children and older persons.
- Increases risk of sudden infant death syndrome (SIDS) and middle ear infections in children.
- Is a major health threat to persons with asthma -- sometimes fatal.



# Secondhand Smoke ...



- Causes burning of the eyes, nose, and throat; headaches; increases in the heart rate and blood pressure and upsets the stomach.
- Nonsmokers who are regularly exposed to secondhand smoke at home or work have almost double the risks of heart disease.
- Causes 30 times as many lung cancer deaths as all regulated air pollutants combined.
- U.S. Surgeon General's report, 1986; American Heart Association.

# What is the source of all this data on secondhand smoke?

- Hundreds of scientific studies conducted worldwide with professional “peer” reviews to assure their validity.
- Reports from governmental agencies around the globe, including the U.S., Canada, Australia, New Zealand, Japan, Great Britain, the European Union, etc.
- Rigorous reviews of the scientific studies, including by the following:
  - California Environmental Protection Agency
  - U.S. Environmental Protection Agency
  - Canadian Clearinghouse on Tobacco & Health
  - World Health Organization (WHO)
  - U.S. Centers for Disease Control & Prevention
  - National Institute for Occupational Safety & Health (NIOSH)

Thus, from a health perspective, the debate is over -- secondhand smoke is a serious health danger to persons of all ages, especially infants, children and older persons with respiratory problems.

**QUESTION:** Should public policies be adopted & enforced to protect persons from the health dangers of secondhand smoke in residential settings, such as apartments, nursing homes & assisted living facilities?

Are the health dangers of  
secondhand smoke any  
different in residential  
settings?

No

Are there ventilation systems which can eliminate the health dangers of secondhand smoke in enclosed areas?

No scientific studies have shown that ventilation systems work.

Even the manufacturers of ventilation systems don't claim they protect health.

Are there other reasons for strictly restricting smoking in multi-resident settings?

Yes.

Fires caused by cigarettes are a serious danger to residents of nursing homes, assisted living facilities & other multi-resident housing

# Fires in residential facilities for older persons

## **Nursing home fires rare, but among the most deadly**

Associated Press

October 5, 2003

NASHVILLE, Tenn. -- Nursing home fires represent only about 0.5 percent of the 560,000 structure fires each year in the United States, but they're often among the most deadly.

The reason is simple: Nursing home residents typically are too old and frail to take care of themselves in an emergency. People older than 65 are twice as likely to die in a home fire than the general population, and the risk increases with age.

# Fires in apartments & assisted living facilities

## **Fire forces out elderly apartment residents**

Saturday, May 24, 2003

BELMONT, Calif. (AP) --

Residents of a senior citizen housing facility were evacuated Saturday when a cigarette touched off a six-alarm fire, authorities said.

More than 140 residents of the Bonnie Brae Terrace were forced from their apartments by the blaze, which began in the wee hours Saturday morning, said Herb Jewell, chief of the South County Fire Authority.

# What can be done?

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## **Smoking Policies in Facilities Serving Older Persons**

### **The Center for Social Gerontology**

2307 Shelby Avenue, Ann Arbor, MI 48103 tel: 734 665-1126 fax: 734 665-2071

[www.tcsg.org/tobacco/smokepolicies.htm](http://www.tcsg.org/tobacco/smokepolicies.htm)

# What will I find there?

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- STUDIES ON SMOKING POLICIES IN FACILITIES SERVING OLDER PERSONS
- MODEL SMOKE-FREE POLICIES IN FACILITIES SERVING OLDR PERSONS
- JCAHO ACCREDITATION STANDARDS FOR LONG-TERM CARE FACILITIES CONCERNING SMOKING
- SMOKING-CAUSED FIRES IN LONG-TERM CARE FACILITIES & ELDERLY HOUSING
- LINKS TO RELATED RESOURCES

# What do federal and state laws say about smoking in nursing homes and assisted living facilities?

- Most state laws allow nursing homes some discretion regarding smoking, but most require some form of designated smoking area if smoking is permitted. Federal laws also allow smoking. However, federal laws and most state laws permit nursing homes to be totally smoke-free.
- Due to the lack of consistent ALF regulation on the state level and total lack of federal ALF regulation, ALFs are largely free to adopt such smoking policies as they wish. They are also clearly free to adopt total smoke-free policies in most states.

# JCAHO Accreditation Standards for Long-Term Care Facilities Concerning Smoking

## **Standard EC.1.30**

**The organization develops and implements a policy to prohibit smoking except in specified circumstances.**

### **Rationale for EC.1.30**

This standard is intended to reduce the following risks:

To people who smoke, including possible adverse effects on care, treatment, or services.

Of passive smoking for others.

Of fire.

The standard prohibits smoking in all areas of all building(s) under the organization's control, except for residents in circumstances specified in the Elements of Performance below.

# What do the ADA and FHA say about smoking in nursing homes, assisted living facilities and apartments?

- Both the federal Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA) are clear that persons cannot be discriminated against in workplaces, public places or in housing due to disability; and, having severe breathing problems constitutes a disability.
- Therefore, these facilities are required by the ADA and/or FHA (and parallel state statutes) to provide reasonable accommodations to persons with severe breathing disabilities, including possibly making the facility totally smoke-free.

# TCSG's Model Smoking Policies in Nursing Homes

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Provide 2 options, as follows:

- 1) A smoke-free policy, except for separate designated smoking areas for current residents who are smokers; or,
- 2) A smoke-free policy, except for separate designated smoking areas for current & future residents who are smokers.

# TCSG's Model Smoking Policies in Assisted Living Facilities

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Provide 3 options, as follows:

- 1) A totally smoke-free policy; or,
- 2) A smoke-free policy, except for separate designated smoking areas for current residents who are smokers; or,
- 3) A smoke-free policy, except for separate designated smoking areas for current & future residents who are smokers.

# TCSG Study: What smoking policies do nursing homes currently have?

- 64% did not permit smoking inside;
- All of the remaining 36% only allowed smoking in designated smoking areas;
- Of those with designated smoking areas, 83% were in separate rooms with separate ventilation;
- Of those with designated smoking areas, about 50% only permitted smoking at set times.
- Of those that allowed smoking, 99% did not allow smoking in resident's rooms.
- Of those that allowed smoking, 52% required staff to supervise the smoking and 35% said supervision depended on the residents' specific needs.

# Apartment owners are permitted by federal and state law to adopt total smoke-free policies.

- HUD Legal Counsel letter of July, 2003 states that apartment owners are free under federal law to make their buildings totally smoke-free, so long as they “grandfather” current residents who are smokers.
- Michigan Attorney General Opinion of 1992 states that neither federal nor Michigan law prohibits a landlord from making his/her apartment building totally smoke-free. The laws of most other states are the same.
- As the HUD Legal Counsel letter stated: “The right to smoke or not to smoke is not a right that is protected under the Civil Rights Act of 1964 ...” because smokers are not a protected class under federal law.

# TCSG's Suggested Smoking Policies in Multi-Unit Housing

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Provide 3 options, as follows:

- 1) A totally smoke-free policy; or,
- 2) A smoke-free policy, except in apartments for current residents who are smokers, but units to be physically separated from smoke-free units; or
- 3) Smoke-free policy, except in apartments for current & future residents who are smokers; units to be physically separated from smoke-free units.

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

# Billboard

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## Why smoke-free apartments?

**26% of Michigan housing units are renter-occupied -- that's almost 1 million units.**

**That's over 2.2 million people, 22% of Michigan's total population**

U.S. Census, 2000

## Why smoke-free apartments?

- SHS in apts affects millions of people
- Tenants want smoke-free apartments
- Increasing numbers of complaints about secondhand smoke infiltration in apts
- Health risks the same as elsewhere
- Secondhand smoke cannot be controlled
- Good deal for landlords
- It's legal to do

## Why smoke-free apartments?

A recent New Zealand study found that 80% of homes there were smoke-free; and, 43% of smokers live in smoke-free homes.

-- New Zealand Journal of Public Health, August, 2005

Smoke-free homes are the norm, not the exception.

But, most apartment buildings are not smoke-free; a family with a smoke-free policy in their apt can easily have SHS intrusions.

## Tenants want smoke-free apts

- Healthy Androscoggin in Auburn, Maine surveyed 850 tenants; 76% would choose to live in a smoke-free apartment complex
  - Twin Cities (MN): random sample survey -- 55% of renters said they had moved or would move from an apartment because of secondhand smoke seepage
  - ALA-California in 2004 surveyed 602 apartment residents; 69% favored requiring all apt buildings to offer non-smoking sections
- For opinion surveys:  
[www.tcsg.org/sfelp/public.htm](http://www.tcsg.org/sfelp/public.htm)

## Why Should We Care?

The **health dangers** of secondhand smoke are **NOT any different in residential settings** than in workplaces;

**Except**, the health effects may be even more serious ...

## Why Should We Care?

Passive smoking currently kills about 12,000 people in the UK every year. ... Most of the deaths are caused by passive smoking at home, but about 500 each year are due to exposure at work.

“Going Smoke-free: The medical case for clean air in the home, at work and in public places” July 12, 2005 report of the Royal College of Physicians, United Kingdom

I.e., 96% of passive smoking deaths in the UK are due to smoking in the home.

## Why Should Landlords Care?

**Secondhand smoke cannot be controlled by ventilation or air cleaning:** On June 30, 2005, the American Society of Heating, Refrigerating & Air-Conditioning Engineers (ASHRAE) issued their latest position document on secondhand smoke. It states: “At present, the only means of effectively eliminating health risk associated with indoor exposure is to ban smoking activity.” [www.ashrae.org](http://www.ashrae.org)

## Why Should Landlords Care?

**Smoking damages residential property:**

Poses fire hazard

Causes cigarette burn damage to carpets, counters, etc

Leaves smoke residue on walls and curtains

## Cigarette-caused Fires

### Nationally:

Smoking was the cause of just 9% of apartment fires, but

Smoking was the cause of 40% of deaths from apartment fires, and

Smoking was the cause of 16% of injuries from apartment fires

NFIRS, 2002

## Why Should Landlords Care?

**Complaints** from non-smoking tenants about smoke incursions.

**Legal action** can be taken against landlords who allow smoking in their buildings.

## But ...

Isn't smoking a "right?"

No. However, no law prevents smoking in private residences

**But nothing stops a landlord from prohibiting smoking** on his/her property

There is **no legal right to smoke**

**Smokers are not a "protected class" under the law**

## In Fact

Tenants negatively impacted by secondhand smoke actually have the right to **seek legal action against landlords** who do not make adequate provisions to protect them from second hand smoke.

## The Fair Housing Act says:

Apartment owners are among those **required** by the ADA and/or FHA (and parallel state statutes) **to provide reasonable accommodations** to persons with severe breathing disabilities, including possibly making the apartment building totally smoke-free.

## Other legal actions available:

Common law remedies tenants may use:

- Breach of warranty of habitability and/or breach of warranty of quiet enjoyment
- Nuisance law violation
- Negligence, harassment, trespass, constructive eviction, intentional infliction of emotional distress, battery
- Violations of Housing or Health Codes

## So what can landlords legally do?

Apartment owners are **permitted by federal and state law to adopt total smoke-free policies.**

To implement a smoke-free policy in a multi-unit dwelling:

Add smoke-free provisions to the leases for apartment complexes or to the “house rules” in public Housing Commission buildings

## So what can landlords legally do?

HUD Legal Counsel letter of July, 2003 states that apartment owners are **free under federal law to make their buildings totally smoke-free**, so long as they “grandfather” current residents who are smokers.

“Grandfathering” means for a reasonable period, such as until lease renewal

This letter is accessible on the MISmokeFreeApartment web site at <http://www.mismokefreeapartment.org/l3rights.html>

## So what can landlords legally do?

Michigan Attorney General Opinion of 1992 states that **neither federal nor Michigan law prohibits a landlord from making his/her apartment building totally smoke-free.**

This AG Opinion is accessible on the MISmokeFreeApartment web site at <http://www.mismokefreeapartment.org/l3rights.html>

## Housing Commissions Have Adopted Smoke-Free Policies:

- Housing Authorities/Commissions have adopted smoke-free policies, including in: Seattle, WA; Auburn, ME; Cloquet, MN; Fort Pierce, FL; Kearney, NE; Madera, CA; Ocean City, NJ; Sanford, ME; Santa Barbara, CA; **Cadillac, MI; Plymouth, MI.**
- Others are considering doing so.

## Smoke-Free Apartment Listing online:


The MISmokeFreeApartment.org web site includes a listing of over 250 smoke-free apartments:

**[www.mismokefreeapartment.org/listing.html](http://www.mismokefreeapartment.org/listing.html)**

We have compiled the list of smoke-free apartments in coordination with local tobacco reduction coalitions, health departments, apartment associations, & others.

## Smoke-Free Apartment Decal

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.



## You Have Resources Online

**MISmokeFreeApartment web site:**

[www.mismokefreeapartment.org](http://www.mismokefreeapartment.org)

**Smoke-Free Environments Law Project site:**

[www.tcsq.org/sfelp/home.htm](http://www.tcsq.org/sfelp/home.htm)

**SFELP Apartments site:**

[www.tcsq.org/sfelp/apartment.htm](http://www.tcsq.org/sfelp/apartment.htm)

**SFELP Condominiums site:**

[www.tcsq.org/sfelp/condos.htm](http://www.tcsq.org/sfelp/condos.htm)