

**ORDINANCE NO. 41
(SERIES 2008)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, AMENDING TITLE 8 OF THE ASPEN MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 8.15 TO ESTABLISH THE RESPONSIBILITIES FOR CARBON MONOXIDE DETECTORS.

WHEREAS exposure to carbon monoxide (CO), a colorless, odorless gas, can cause headaches, dizziness, nausea, faintness, and at high levels, death; and

WHEREAS carbon monoxide (CO) may be present in residential occupancy sleeping areas as a result of sources of heat or energy created by fossil fuels or by the use of machinery or vehicles powered by fossil fuels, causing a significant risk to the occupants, as well as emergency services personnel who may come to their aid; and

WHEREAS a tragedy occurred in the vicinity of the City of Aspen on the night of November 27, 2008, resulting in the deaths of four people from carbon monoxide poisoning; and

WHEREAS the City Council considers it in the best interest of the public health, safety, and welfare of the citizens and guests of Aspen to adopt this Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, THAT:

Section 1.

Title 8 of the Aspen Municipal Code is hereby amended by the addition of a new Chapter 8.15, which chapter shall read as follows:

**Chapter 8.15
Carbon Monoxide Detectors**

Section 8.15.010 Purpose and Scope.

This chapter is enacted for the purpose of protecting the health and safety of the residents of the City, its visitors and employees, by requiring operable carbon monoxide detectors in existing and new residential occupancies, thereby hopefully reducing the number of injuries and fatalities resulting from carbon monoxide (CO) poisoning.

The provisions of this ordinance shall apply to all new residential construction containing a sleeping unit, additions to residential buildings containing a sleeping unit, remodels of residential buildings containing a sleeping unit for which a building permit is required, and to the replacement or addition of a fuel burning appliance for which a permit is required.

Section 8.15.020 Definitions.

The following terms as used in this chapter shall have the indicated meaning:

Building Codes: The building, fire, and other technical codes adopted pursuant to Chapter 8 of this Code.

CO Detector: A device sensing invisible particles of carbon monoxide that is either battery powered or AC powered with battery backup that has been installed in accordance with its manufacturer's recommendations, which when activated will provide some form of visual or audible detector, and which has been either UL (Underwriters Laboratories Inc.) listed or CSA (Canadian Standards Association) approved.

Dwelling: Any building or portion thereof containing one or more dwelling units occupied as or deigned or intended for occupancy as a residence by one or more families.

Dwelling Unit: Any building or portion thereof designed, occupied, or intended as a residence, with complete and independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Residential Occupancies:

A. Any of the residential uses as such terms are defined and described in International Residential Code and International Building Code in Chapter 8.16 and 8.20 of this Code.

B. Any residential occupancy or any institutional occupancy with sleeping units as such terms are defined in the building codes.

C. Any other occupancy used for sleeping purposes.

Separate Sleeping Area: Bedrooms or sleeping rooms separated by other use areas, such as a kitchen or a living room, but not including bathrooms.

Sleeping Unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both.

Section 8.15.030 Responsibilities.

A. All existing residential occupancies and all residential occupancies to be constructed after the effective date of this ordinance shall be equipped with CO detectors in accordance with the requirements of this Chapter,

B. The owner of a residential occupancy shall be responsible to install and maintain required CO detector(s) in such residential occupancy in accordance with the requirements of this Chapter. The owner of a residential occupancy shall test and replace all batteries necessary for operation of a required CO detector, except for dwellings or dwelling units where the tenant has been notified of such responsibility. The owner of a residential occupancy shall immediately repair or replace any defective CO detector required under the provision of this Chapter.

C. The owner of a dwelling or dwelling unit that is rented or leased to a tenant, shall immediately upon notice from the tenant repair or replace a defective CO detector required to be located within such dwelling or dwelling unit, except that the owner need not repair or replace any CO detector where the defective condition was caused by the tenant, the tenant's family, or the tenant's guests or invitees. The owner shall install new batteries in any required CO detector at the beginning of a new lease or tenancy. The owner shall furnish to the tenant at the beginning of a new lease or new tenancy written notice of the owner's responsibility to install and maintain a required CO detector on the premises. The tenant shall inform the owner of any CO detector malfunction, test, and replace batteries necessary for operation and repair or replace a defective CO detector in the event that the defective condition was caused by the tenant, the tenant's family, or the tenant's guests or invitees, by inappropriate use or misuse of the dwelling or dwelling unit during the rental term or any extension of it.

D. A tenant in possession of a dwelling or dwelling unit shall be responsible for testing and replacing any batteries necessary for operation of a required CO detector, informing the owner of a CO detector malfunction, and repairing or replacing a defective CO detector in the event that the defective condition was caused by the tenant, the tenant's family, or the tenant's guests or invitees, by inappropriate use or misuse of the dwelling or dwelling unit during the rental term or any extension of it.

8.15.040 Carbon Monoxide Detector –Installation Requirements.

A. Carbon Monoxide detector(s) shall be centrally located outside each separate sleeping area in the immediate vicinity of the bedrooms or sleeping rooms. Residential occupancies shall be considered to be in compliance with this requirement if CO detector(s) are installed within a dwelling unit such that an audible signal not less than 70 decibels reaches each sleeping area. CO detectors shall be hard wired in new construction. In interior alterations, repairs, or additions requiring a permit, or when one or more sleeping rooms are added or created in existing dwellings, detectors shall be hard wired where the alterations or repairs result in the removal of interior wall or ceiling finishes, unless there is an attic, crawlspace, or basement available which would provide access for hard wiring.

B. Carbon monoxide detectors shall be installed within each sleeping area containing any fuel burning appliance such as a gas log, decorative gas fireplace appliances, gas clothes dryer, or wood burning appliance, etc.

C. It is the intention of this Chapter to implement the requirements of the existing building codes, including NFPA #720, 2009 edition approved as an American October 10, 2008, to the greatest extent practicable for existing residential occupancies. The building official or the fire official may approve alternative locations or methods for the installation of CO detectors, if the result would meet the spirit and intent of the building codes and NFPA #720. The building official in coordination with the fire official may also adopt written guidelines illustrating or describing required locations of CO detectors, and any approved alternative locations or methods for bringing residential occupancies into compliance with the requirements of this chapter.

D. A CO detector is deemed approved for purposes of this Chapter if it complies with all applicable state and federal regulations, and bears the label of a nationally recognized standard testing laboratory and meets the revised standard of at least UL 2034 and subsequent revision or its equivalent. The CO detector may be a combination smoke/ gas/CO device.

E. Each CO detector shall be mounted in accordance with the manufacturer's instructions, though a ceiling mount is preferred. CO detector(s) may not be mounted in areas of low air movement (dead air spaces).

F. If a CO detector is required to be installed in a common hallway and found to be tampered with, it shall be replaced with a hard-wired device (missing or inoperable batteries shall not constitute tampering). Any CO detector found to be missing a battery shall be replaced by the owner with a tamper-proof CO detector with a sealed battery.

G. In new construction, the required CO detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. CO detectors shall be permitted to be battery-operated when installed in buildings without commercial power or in buildings that undergo alterations, repairs, or additions as stipulated in Section 8.15.040 A.

Section 8.15.050 Prohibitions.

A. It shall be unlawful for any owner of a residential occupancy to fail to install and maintain an operable CO detector when required under the provisions of this chapter.

B. It shall be unlawful for any person to remove or render ineffective a CO detector installed to satisfy the requirements of this ordinance. This provision shall not apply to a building owner, manager, or his/her agent in the normal procedure of repairing or replacing a CO detector.

C. No person shall without privilege to do so knowingly move, deface, damage, destroy, or otherwise improperly tamper with a CO detector required to be installed pursuant to the provisions of this Chapter so as to destroy or diminish its effectiveness or availability for its intended purpose.

Section 8.15.060 Enforcement Responsibility.

The building official and the fire code official or their designees shall monitor compliance with this Chapter and may perform enforcement inspections upon but not limited to the following instances: when notified of a change in occupancy; when reviewing or inspecting the construction, repair, rehabilitation, or renovation of the interior of a residential occupancy pursuant to a required permit; when inspecting at the request of the building owner; when inspecting for any other purpose under the provisions of this code; or when on the premises for any lawful purpose, including but not limited to such purposes as responding to a fire or other request for fire department services.

Section 8.15.070 Penalties and Remedies for Violations.

A. Infraction: A violation of the provisions of this Chapter is an infraction, and upon conviction, shall be punishable as set forth in Chapter 1.04 of this Code.

B. Other Remedies: This Chapter may also be enforced by injunction, mandamus, judicial abatement, or any other appropriate action in law or equity.

C. Daily Violations: Each day that any violation of this Chapter continues shall be considered a separate offense for purposes of the penalties and remedies available to the City.

8.15.080 Effective Date: All owners of existing residential occupancies shall come into compliance with the requirements of this Chapter on or before March 2, 2009.

Section 2.

This ordinance shall become effective 30 days following passage and publication.

Section 3.

This ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be construed and concluded under such prior ordinances.

Section 4.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portions thereof.

A public hearing on the ordinance was held on the 12th day of January, 2009, in the City Council Chambers, Aspen City Hall, Aspen, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED as provided by law by the City Council of the City of Aspen on the _____ day of _____, 2008.

Michael C. Ireland, Mayor

ATTEST:

Kathryn S. Koch, City Clerk

APPROVED AS TO FORM:

John P. Worcester, City Attorney

FINALLY adopted, passed and approved this _____ day of _____, 2008.

Michael C. Ireland, Mayor

ATTEST:

Kathryn S. Koch, City Clerk

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