

**AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS  
OF PITKIN COUNTY, COLORADO, AMENDING THE PITKIN COUNTY CODE TO  
CLARIFY AND EXPAND UPON A REQUIREMENT RELATING TO CARBON  
MONOXIDE DETECTORS**

**LOFGREN FAMILY ORDINANCE NO. 39-A -2008**

**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 fuel or by the use of machinery or vehicles powered by fossil fuel, causing a significant risk to their occupants, as well as emergency services personnel who may come to their aid; and,

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

**WHEREAS**, Title 30, C.R.S. authorizes Home Rule Counties to make and publish ordinances to discharge the powers conferred upon such counties by law, and

**WHEREAS**, The Pitkin County Board of County Commissioners considers it in the best interest of the public health, safety, and welfare to adopt Ordinance 39-A, Series of 2008; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Pitkin County, Colorado that: Title 11 of the Pitkin County Code is hereby amended to read and provide as follows:

**CHAPTER 11.38  
Carbon Monoxide Detectors**

**Section 11.38.010 PURPOSE AND SCOPE:** This chapter is enacted for the purpose of protecting the health and safety of the residents of the County, its visitors and employees, by requiring operable carbon monoxide detectors in existing 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: 1) all new residential construction containing a sleeping unit; 2) additions to residential buildings containing a sleeping unit; 3) remodels of residential buildings containing a sleeping unit for which a building permit is required; 4) residential units where a fuel burning appliance is added or replaced and for which a permit is required; 5) all existing residential buildings, including single family, duplex, townhome and multifamily.

**Section 11.38.030 DEFINITIONS:** The following terms as used in this chapter shall have the indicated meaning:

**BUILDING CODES:** The building and other technical codes adopted pursuant to Title 11 of this code.

**CO DETECTOR:** A device sensing invisible particles of carbon monoxide that is either battery powered, AC powered with battery back up or connected to a system via an approved control panel that has been installed in accordance with its manufacturer's recommendations, which, when activated, will provide some form of visual or audible signal, 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 designed 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 Building Code and the International Residential Code as amended by the Pitkin County Code in Chapters 11.04 and 11.20.

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 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 11.38.040 RESPONSIBILITIES:**

A. All existing residential occupancies and all residential occupancies to be constructed in the future 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: 1) Install and maintain required CO detector(s) in such residential occupancy in accordance with the requirements of this chapter; 2) 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; 3) 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: 1) 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, by inappropriate use or misuse of the dwelling or dwelling unit during the rental term or any extension of it; 2) Install new batteries in any required CO detector at the beginning of a new lease or tenancy; 3) 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.

D. A tenant in possession of a dwelling or dwelling unit shall be responsible for: 1) Testing and replacing any batteries necessary for operation of a required CO detector; 2) Informing the owner of a CO detector malfunction; and 3) Repairing or replacing defective CO detectors 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.

#### **Section 11.38.050 CO DETECTOR / INSTALLATION REQUIREMENTS:**

A. CO detector(s) shall be centrally located outside of each separate sleeping area in the immediate vicinity of the bedrooms or sleeping rooms and on each level of the residence. 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 or connected to a system via an approved control panel 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 or connected to a system via an approved control panel 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. CO detectors are required in sleeping units containing fuel burning appliances, e.g. gas clothes dryer, decorative gas fireplace, wood burning appliance, etc.

C. It is the intention of this chapter to implement the requirements of the existing building codes, including the latest edition of National Fire Protection Association #720, to the greatest extent practicable for existing residential occupancies. The building official or the fire marshal 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 marshal, 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 ANSI/UL 2034, Single and Multiple Station Carbon Monoxide Alarms, or ANSI/UL 2075, Gas and Vapor Detectors and Sensors, and subsequent revision or its equivalent. The CO detector may be a combination smoke/gas/CO device.

E. Each CO detector will be mounted in accordance with the manufacturer's instructions, though ceiling mounting is preferred. CO detector(s) will 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) or replaced with a system-connected detector.

G. In new construction, the required CO detector shall receive its 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 or from an approved control panel. 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 11.38.050 A.

#### **Section 11.38.060 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 11.38.070 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 or his representative; 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 11.38.080 PENALTIES AND REMEDIES FOR VIOLATIONS**

##### **A. Violations, Criminal Enforcement and Penalties**

1) Violations of any section of §11.38 of the Pitkin County Code shall be a Class 2 Petty Offense with a maximum fine of \$1000 and /or imprisonment for a period not to exceed 90 days or the maximum allowable by state law. The building official and the fire code official, or their

designees, shall be authorized to serve either a Summons and Complaint or Penalty Assessment, as specified in this Section on any person who violates the provisions of this Ordinance.

2) Failure to provide carbon monoxide detectors as specified by this Ordinance shall be subject to penalty assessment as follows:

- First Offense: \$250.00
- Second Offense: \$500.00
- Third and additional offenses: Summons and Complaint to appear before the Pitkin County Court.

3) Summonses and Complaints shall be referred to the District Attorney for prosecution in Pitkin County Court. Non payment of a Penalty Assessment shall result in prosecution of the Penalty Assessment as a Summons and Complaint pursuant to § 16-2-201, C.R.S., as amended. In such case the penalty schedule set forth in this § 11.38.070 (2) shall be followed

4) Any Person who aids, assists or abets any other Person in committing a violation of these regulations shall be subject to the penalties specified in § 11.38.070 (2) dependent upon on whether the person aided or assisted is subject to Penalty Assessment or Summons and Complaint.

5) Each day a violation of §11.38 of the Pitkin County Code continues shall be considered a separate offense for purposes of penalties.

6) In the case of a property being designed such that multiple rooms require a detector and there are multiple violations within that property, together they shall constitute one violation for the given day

#### B. Violations, Civil Enforcement.

1) Notice of Violation In addition to utilizing the enforcement procedures authorized by this Ordinance, the building official and the fire code official or their designees may deliver a Notice of Violation (NOV) to any person who violates this Ordinance. The NOV shall specify the violation, and may require that the violator either cease and desist immediately from all acts or omissions relating to the violation, or correct the violation within a specified time not to exceed 90 days. Failure to comply with the terms of an NOV shall result in enforcement pursuant to §11.38.080 (2-6). Issuance of a Notice of Violation shall not be deemed a condition precedent to enforcement pursuant to the procedures set forth in §11.38.080, nor shall it preclude later enforcement action pursuant to §11.38.080.

2) Civil Enforcement In the event of any act or omission that violates any section of this Ordinance, the County Attorney, in addition to other remedies provided by law or specified herein, may institute an injunction, mandamus, abatement, or other appropriate civil action or proceeding to prevent, enjoin, or abate any unlawful activity, or to remove any improvements or construction resulting from such unlawful activity. In the event that such unlawful activity has damaged any county property, the violator shall be liable for any damage to county property resulting from any such unlawful activity, including, but not limited to, compensation for staff time and for use of county equipment or contracted services to repair such damage. Any civil

action or proceeding may include a claim to recover all such money damages in addition to any and all claims for injunctive or other equitable relief.

Withdrawing or Withholding Permits In the event that Community Development or designee, Code Enforcement Officer, or designee has personal knowledge of any violation of this Ordinance, any Community Development issued permit may be withdrawn after the violator is provided notice and an opportunity for hearing before the Board of County Commissioners. No further permits or approvals from the County shall be issued for any property generating a violation until the violation is brought into compliance with the standards of this Ordinance.

**Section 11.38.090 EFFECTIVE DATE:** All owners of residential occupancies shall come into compliance with the requirements of this chapter on or before March 2, 2009.

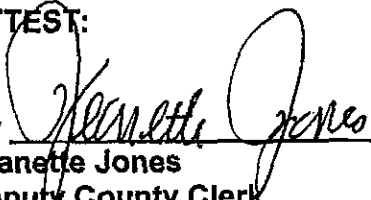
INTRODUCED, FIRST READ, ADOPTED AS AN EMERGENCY ORDINANCE ON DECEMBER 17, 2008 AND SET FOR CONFIRMATORY READING AND PUBLIC HEARING ON JANUARY 14, 2009.

NOTICE OF CONFIRMATORY PUBLIC HEARING AND THE FULL ORDINANCE PUBLISHED IN THE ASPEN TIMES WEEKLY ON JANUARY 4, 2008.

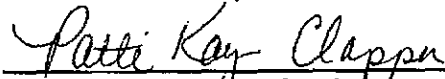
CONFIRMED AFTER A DULY NOTICED PUBLIC HEARING ON JANUARY 14, 2009

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON JANUARY 24, 2009.

ATTEST:

By   
Jeanette Jones  
Deputy County Clerk

BOARD OF COUNTY COMMISSIONERS  
OF PITKIN COUNTY, COLORADO

By:   
Patti Kay Clapper, Chair

Date: 01-29-09

APPROVED AS TO FORM:

  
John Ely, County Attorney

THROUGH:

  
Cindy Houben, Director, Community Development

**\*MANAGER APPROVAL:**

  
Hilary Fletcher, County Manager

**RECOMMENDED FOR APPROVAL:**

  
Tony Fusaro, Chief Building Official

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