

MECKLENBURG COUNTY HEALTH REGULATIONS REGARDING CARBON MONOXIDE

Be it ordained by the Mecklenburg County Board of Commissioners (while exercising the power of the Board of Health, which powers it has assumed and conferred on itself by action pursuant to G.S. 153A-77), that the following regulations requiring operable carbon monoxide (CO) alarms in certain structures in Mecklenburg County for the protection of the public health and safety, are hereby adopted pursuant to G.S. 130A-39(a). These Regulations shall apply throughout Mecklenburg County, North Carolina, including, but not limited to, all cities and towns, whether incorporated or unincorporated.

SECTION I: PURPOSE

Recognizing that exposure to carbon monoxide (CO), a colorless, odorless gas, can cause headaches, dizziness, nausea, faintness, and, at high levels, death, the following Regulations are enacted for the purpose of protecting the public health and safety of the residents of Mecklenburg County by requiring operable carbon monoxide alarms in certain structures, thereby hopefully reducing the number of injuries and fatalities resulting from carbon monoxide (CO) poisoning.

SECTION II: DEFINITIONS

(a) "Carbon Monoxide (CO) Alarm" means a device sensing invisible particles of Carbon Monoxide that is either battery powered or AC powered with battery back-up, that has been installed in accordance with its manufacturer's recommendations, which, when activated, will provide some form of visual or audible alarm, and which has been either UL (Underwriters Laboratories Inc.) listed or CSA (Canadian Standards Association) approved. (CO Alarms installed prior to January 1, 2004 are not subject to the requirements stated above as to the power source for the CO Alarm.)

(b) "Child Care Center" means an arrangement where, at any one time, there are three (3) or more pre-school age children or nine (9) or more school-age children receiving child care, and includes child day care facilities as defined in the Mecklenburg County Board of Health Rules Governing Child Day Care Homes.

(c) "Child Care Facility" includes child care centers, family child care homes, and any other child care arrangement that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit, to three (3) or more children less than 13 years old who do not reside where the care is provided, and who receive care on a regular basis of at least once per week for more than four (4) hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption, but does not include the following:

1. Facilities that are used in the operation of seasonal recreational programs for less than four (4) consecutive months in a year;

2. Facilities that are used in the operation of specialized activities or instruction such as athletics, dance, art, music lessons, gymnastics, or are used by organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys or girls groups;
3. Facilities that are used to provide only drop-in or short-term child care for parents participating in activities that are not employment related and where parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
4. Public schools or nonpublic schools that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility for less than six and one-half hours per day either on or off the school site;
5. Facilities that are used by licensed caretakers for the mentally ill, developmentally disabled, and substance abusers;
6. Facilities that are used to provide any child care program or arrangement consisting of two (2) or more separate components, each of which operates for four (4) hours or less per day, with different children attending each component;
7. Facilities that are used to conduct Bible school during vacation periods;
8. Facilities that are used by parents as part of a cooperative arrangement among those parents to provide care for their own children as a convenience rather than for employment.

(d) "Condominium"; means a dwelling unit contained within a multi-family dwelling under the condominium form of ownership.

(e) "Dwelling" means a building designed or occupied for residential purposes and having either

(i) one dwelling unit, i.e., a single family dwelling; or

(ii) two (2) dwelling units, i.e., a duplex.

(f) "Dwelling Unit" means a single unit providing complete and independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(g) "Family Child Care Home" means a child care arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care, and includes child day care homes as defined in the Mecklenburg County Board of Health Rules Governing Child Day Care Homes.

(h) "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling, as such phrase is more specifically defined in Article 9B of Chapter 143 of the General Statutes, and as such definition may be amended or revised from time to time.

(i) "Multi-Family Dwelling" means a building or portion thereof containing three or more dwelling units.

(j) "Person" means an individual, firm, partnership, association, public or private institution, municipality, political subdivision of the State of North Carolina, governmental agency or a public or private corporation, organized or existing under the laws of this State or any other State or County.

(k) "Town House" means a single family dwelling unit constructed in a series or group of attached units with property lines separating such units.

SECTION III. A.: GENERAL PROVISIONS EFFECTIVE PRIOR TO JANUARY 1, 2004

(a) Dwelling Units. Every dwelling unit identified in subsection (d) of this Section, whether located within a single-family dwelling, a duplex, a multi-family dwelling, a condominium, a manufactured home, or a town house, shall contain at least one operable carbon monoxide (CO) alarm installed in accordance with the manufacturer's recommendations. This provision shall apply to existing dwelling units in addition to dwelling units to be constructed in the future.

(b) Rental of Dwelling Units. It shall be unlawful for anyone to rent or lease to another a dwelling unit identified in subsection (d) of this Section, whether located within a single-family dwelling, a duplex, or a multi-family dwelling, condominium, or town house, unless that dwelling unit has in it at least one operable carbon monoxide (CO) alarm installed in accordance with the manufacturer's recommendations. This provision shall apply to existing dwelling units in addition to dwelling units to be constructed in the future. The landlord shall replace or repair the carbon monoxide (CO) alarms within fifteen (15) days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. Landlord shall ensure that a carbon monoxide (CO) alarm is operable and in good repair at the beginning of each tenancy. The tenant shall periodically inspect the carbon monoxide (CO) alarm to ensure operability and notify the landlord in writing of any needed repairs, test and replace batteries in any battery-operated carbon monoxide (CO) alarms as needed during the tenancy, and do nothing to disable carbon monoxide (CO) alarms. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord.

(c) Child Care Facilities. Every child care facility shall contain at least one operable carbon monoxide (CO) alarm installed in accordance with the manufacturer's recommendations. This provision shall apply to existing child care facilities in addition to child care facilities to be constructed in the future.

(d) Applicability. The requirements of subsection (a) and (b) of this Section shall apply only to dwelling units, whether located within a single-family dwelling, a duplex, a multi-family dwelling, a condominium, a manufactured home, or a

townhouse, and whether owned or leased, that have fossil fuel (natural gas, coal, kerosene, oil, or propane) burning appliances or fireplaces, or attached garages (excluding garages attached only by breezeways

SECTION III. B.: GENERAL PROVISIONS EFFECTIVE JANUARY 1, 2004

(a) Dwelling Units. Every dwelling unit, whether located within a single-family dwelling, a duplex, a multi-family dwelling, a condominium, a manufactured home, or a town house, shall contain at least one operable Carbon Monoxide (CO) Alarm installed in accordance with the manufacturer's recommendations. This provision shall apply to existing dwelling units in addition to dwelling units to be constructed in the future.

(b) Rental of Dwelling Units. It shall be unlawful for anyone to rent or lease to another a dwelling unit, whether located within a single-family dwelling, a duplex, or a multi-family dwelling, condominium, or town house, unless that dwelling unit has in it at least one operable carbon monoxide (CO) alarm installed in accordance with the manufacturer's recommendations. This provision shall apply to existing dwelling units in addition to dwelling units to be constructed in the future. The landlord shall replace or repair the carbon monoxide (CO) alarms within fifteen (15) days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. Landlord shall ensure that a carbon monoxide (CO) alarm is operable and in good repair at the beginning of each tenancy. The tenant shall periodically inspect the carbon monoxide (CO) alarm to ensure operability and notify the landlord in writing of any needed repairs, test and replace batteries in any battery-operated carbon monoxide (CO) alarms as needed during the tenancy, and do nothing to disable carbon monoxide (CO) alarms. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord.

(c) Child Care Facilities. Every child care facility shall contain at least one operable carbon monoxide (CO) alarm installed in accordance with the manufacturer's recommendations. This provision shall apply to existing child care facilities in addition to child care facilities to be constructed in the future.

(d) Applicability. The requirements of this Section shall apply effective on the dates stated in Section VIII to all child care facilities and to all dwelling units, whether located within a single-family dwelling, a duplex, a multi-family dwelling, a condominium, a manufactured home, or a town house, and whether owned or leased, **regardless of the source of energy used in the dwelling unit and regardless of whether the dwelling unit has an attached garage.**

SECTION IV: ENFORCEMENT

These regulations may be enforced in any one or more of the following ways as prescribed by law:

(a) Civil Penalty. A civil penalty of Fifty Dollars (\$50.00) for each of the first five (5) days and Ten Dollars (\$10.00) for each day thereafter of violation of these Regulations may be assessed by the Health Director against any person who:

- (i) Fails to install an operable carbon monoxide (CO) alarm; or
- (ii) Fails to make operable an existing carbon monoxide (CO) alarm;

as required by these Regulations within thirty (30) days after having been issued a warning requesting correction of a violation of these Regulations.

Failure to pay a civil penalty or file an appeal within thirty (30) days after notification of the violation shall result in an additional penalty of Fifty Dollars (\$50.00). The Health Director may establish procedures for the collection of the civil penalties and may enforce collection of the penalties by a civil action in the nature of debt.

Any person upon whom a civil penalty is levied by the Health Director shall have a right to file an appeal with the Director at any time prior to the date the civil penalty becomes delinquent. Upon receipt of a timely exception, the Health Director shall arrange a conference with the person to afford him an opportunity to present any evidence or argument he may have regarding the civil penalty, and the Director shall have the authority to authorize a rebate or refund of the civil penalty if he concludes the civil penalty is not owed. Within fifteen (15) days after the conference, the Health Director shall give written notice to the person of his final decision. In cases in which no rebate or refund is granted, the person shall have fifteen (15) days from the date the notice is mailed to appeal the Health Director's decision to the Mecklenburg County Manager or his designee. The person must pay the civil penalty prior to any hearing before the County Manager or his designee. The County Manager's decision, or that of his designee, shall be subject to review by the Superior Court of Mecklenburg County for proceedings in the nature of certiorari.

(b) Injunction. The provisions of these Regulations may be enforced by injunction as provided in G.S. 130A-18(a). These regulations shall be enforced by the Mecklenburg County Health Director, and by any other local government officials or agencies authorized by the Health Director to issue warnings requesting correction of a violation of these Regulations. Only the Mecklenburg County Health Director, however, can authorize initiation of a civil action seeking an injunction or levy a civil penalty. The Mecklenburg County Health Director and any other local government official or agency authorized by the Health Director shall have a right of entry upon the premises of any place where entry is necessary to enforce the provisions of these Regulations, and if consent is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2.

SECTION V: JURISDICTION

These Regulations shall apply throughout Mecklenburg County, North Carolina, including, but not limited to all cities and towns whether incorporated or unincorporated.

SECTION VI: SEVERABILITY

Should any section of these Regulations be declared by a Court to be unconstitutional or invalid, such decision shall not affect the validity of the Regulations as a whole or any part thereof other than the parts held to be unconstitutional or invalid.

SECTION VII: EFFECTIVE DATES FOR SECTION III. A.

(a) New Construction. These Regulations shall go into effect on January 1, 2001 with respect to all dwelling units and child care facilities for which Building Permits are issued on or after that date.

(b) Existing Owner-Occupied Dwelling Units. These Regulations shall go into effect on January 1, 2001 with respect to owner-occupied dwelling units which had been issued Certificates of Occupancy prior to that date, or are issued Certificates of Occupancy after that date, although no enforcement action of any type under Section IV of this ordinance may be initiated prior to July 1, 2001.

(c) Rented Dwelling Units. These Regulations shall go into effect on January 1, 2002 with respect to all rented dwelling units, provided, however, that these Regulations shall go into effect for any rented dwelling unit on the date following December 31, 2000 that a new rental agreement or a renewal of an existing rental agreement goes into effect for that dwelling unit.

(d) Child Care Facilities. These Regulations shall go into effect on January 1, 2001 with respect to child care facilities.

SECTION VIII: EFFECTIVE DATES FOR SECTION III. B.

(a) New Construction. These Regulations shall go into effect on January 1, 2004 with respect to all dwelling units and child care facilities for which Building Permits are issued on or after that date.

(b) Existing Owner-Occupied Dwelling Units. These Regulations shall go into effect on January 1, 2004 with respect to owner-occupied dwelling units which had been issued Certificates of Occupancy prior to that date, or are issued Certificates of Occupancy after that date, although no enforcement action of any type under Section IV of this ordinance may be initiated prior to July 1, 2004.

(c) Rented Dwelling Units. These Regulations shall go into effect on January 1, 2005 with respect to all rented dwelling units, provided, however, that these Regulations shall go into effect for any rented dwelling unit on the date following December 31, 2003 that a new rental agreement or a renewal of an existing rental agreement goes into effect for that dwelling unit.

(d) Grandfathered CO Alarms. CO Alarms installed prior to January 1, 2004 are not subject to the requirement contained in the definition of Carbon Monoxide (CO) Alarm in Section II(a) that the CO Alarm be either battery powered or AC powered with battery back-up.

Adopted the 8th day of October, 2003.

Approved as to form:

County Attorney

Clerk to the Board

(SEAL)

Note: This Regulation was originally adopted the 6th day of September, 2000 and amended the 8th day of October 2003.