

NEW LAW ON CARBON MONOXIDE DETECTORS

As many of our readers are aware, the State of Wisconsin has adopted new regulations which mandate the installation of carbon monoxide detectors in most residential buildings. *See Wis. Stat. § 101.149*. The regulations are now in effect state-wide.

The first question which must be addressed by most communities is “Who is responsible for compliance with these new regulations?” The regulations fix the obligations upon the “owner” of the building. In some instances, such as most single-family subdivisions, the answer will be obvious. In other communities, especially condominiums, the answer may not be crystal clear.

A further complication is the requirement that most of the detectors must be installed within a dwelling unit. Thus, it may be that the association is charged with compliance with the new regulations, but has limited ability to enter the premises where the detectors must be installed.

Only one carbon monoxide detector need be installed in a single-family dwelling. *Wis. Stat. § 101.149(2)(b)*. Thus in most communities consisting of single-family dwellings, such as most subdivisions, the requirements of these new regulations should be manageable.

In communities consisting of multi-family buildings (three units or more), the requirements of the regulations are generally much more demanding.¹ Carbon monoxide detectors must be installed in the following places within a multi-family building:

1. In the basement of the building, if the basement has a fuel-burning appliance.
2. Within 15 feet of each sleeping area of a unit (e.g. bedroom) that has a fuel-burning appliance or of a unit that is immediately adjacent to another unit with a fuel-burning appliance.
3. In each room that has a fuel-burning appliance and that is not used as a sleeping area, a carbon monoxide detector must be installed not more than 75 feet from the fuel-burning appliance.
4. In each hallway leading from a unit that has a fuel-burning appliance, a carbon monoxide detector must be installed in a location that is within 75 feet from the unit, except where an electrical outlet is not available within 75 feet of the unit, a carbon monoxide detector must be installed at the closest available electrical outlet in the hallway. *Wis. Stat. § 101.149(2)*.

Whether a duplex must have more than one carbon monoxide detector is an open question. The regulations are so vague and contradictory that the Department of Commerce **which is charged with administering these regulations** is unsure how to answer this question.

As of today's date, it is impossible to state with certainty if the units in a duplex need be equipped with more than one carbon monoxide detector. Thus, an association with duplex buildings would be advised to consider the installation of the maximum number of detectors arguably required.

¹ Buildings with three or more dwelling units which do not have attached garages are exempted from the requirements in some circumstances. *See Wis. Stat. § 101.149(5)*.

It also bears noting that in all circumstances, carbon monoxide detectors which are installed must be “reasonably maintained.” Wis. Stat. § 101.149(3)(a). Precisely what is required to comply with this regulation is also unknown at this time. However, it is reasonable to assume that regular inspection of all detectors and the replacement of broken or poorly functioning detectors is required at a minimum.

How can an association deal with this additional regulatory obligation? Review of the regulations and the community’s governing documents should be the first order of business. Thereby, it may be possible to determine whether the unit owners, the association, or both is responsible for compliance with these regulations.

If the obligations, if any, of the association are unclear, installation of the requisite number of detectors by the association would be a safe option. A community’s organizational documents may also provide the association with authority to enforce the regulations and/or fine owners who fail to comply with the regulations. Failing clear authority for the association to act (assuming the regulations mandate that the association act), the association should consider the adoption of a rule, or change to the declaration and/or by-laws.

In any event, associations and their members need to be cognizant of these new regulations and should take steps to insure compliance. It is believed that the Department of Commerce will begin monitoring compliance with these regulations in the near future.