

CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
NOTICE OF PROMULGATION OF RULES PERTAINING TO
CARBON MONOXIDE DETECTING DEVICES

Notice is hereby given pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development (“Department”) by Chapter 61 of the New York City Charter and the New York City Carbon Monoxide Detecting Device Act of 2004 (Local Law # 7 of 2004) that the Department hereby amends Chapter 12 of Title 28 of the Official Compilation of Rules of the City of New York to add provisions concerning installation of carbon monoxide detecting devices to implement Local Law # 7 of 2004. This rulemaking was not included in the agency’s regulatory agenda because it is the result of the enactment of new legislation by the New York City Council. These rules shall take effect immediately upon publication, pursuant to the Statement of Substantial Need published with this notice of adoption.

Section one. The title of chapter 12 of title 28 of the rules of the city of New York is amended to read as follows:

Chapter 12
Smoke Detecting and Carbon Monoxide Detecting Devices and Systems in
Multiple Dwellings

§2. The titles to sections 12-01 through 12-04 of chapter 12 of title 28 of the rules of the city of New York are amended to read as follows:

§12-01 Owner Responsibilities for Smoke Detecting Devices for Class A Multiple Dwellings.

§12-02 Occupant Responsibilities for Smoke Detecting Devices for Class A Multiple Dwellings

§12-03 Owner Responsibilities for Smoke Detecting Devices for Class B Multiple Dwellings

§12-04 Form for Records for Smoke Detecting Devices

§3. Chapter 12 of title 28 of the rules of the city of New York is amended by adding the following sections:

§12-05. Definitions.

For the purposes of this chapter

(a) CO means carbon monoxide; and

(b) CO alarm means a "carbon monoxide alarm" as defined in 1 RCNY Chapter 28 and shall also mean a "carbon monoxide detecting device" as such term is used in subchapter 7 of chapter 1 and subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York.¹

§12-06. Owner Responsibilities for CO Alarms for Class A Multiple Dwellings.

¹ 1 RCNY §28-02(a)(2) states: The term "CO alarm" means a "carbon monoxide alarm" as defined in RS 17-14, and shall also mean a "carbon monoxide detecting device" as such term is used in Subchapter 17 of Chapter 1, and Subchapter 2 of Chapter 2, of Title 27 of the Administrative Code of the City of New York.

1 RCNY § 28-02(e)(2) states: Existing buildings. Buildings in existence on November 1, 2004, and buildings with work permits issued prior to November 1, 2004, may, in the alternative, be equipped with battery-operated CO alarms compliant with RS 17-14 § 5.2.3 or plug-in type CO alarms with a back-up battery compliant with RS 17-14 § 5.2.4, except where such buildings are substantially improved or altered on or after November 1, 2004.

Pursuant to §27-2046.1 of the administrative code of the city of New York, the owner of a Class A multiple dwelling that is required to be equipped with carbon monoxide detecting devices pursuant to article 7 of subchapter 17 of chapter 1 of title 27 of the administrative code of the city of New York and as prescribed by the Department of Buildings ("DOB") pursuant to chapter 28 of title 1 of the rules of the city of New York shall comply with the following requirements:

(a) Provide and install one or more approved and operational CO alarms in each dwelling unit, provided that there shall be installed at least one approved and operational CO alarm within 15 feet of the primary entrance to each room lawfully used for sleeping purposes;

(b) Post a notice in a form approved by the Commissioner of the Department of Housing Preservation and Development ("HPD" or "the Department") in a common area of a Class A multiple dwelling, readily visible and preferably in the area of the inspection certificate informing the occupants of such building that:

(1) the owner is required by law to install one or more approved and operational CO alarm in each dwelling unit in the building within 15 feet of the primary entrance to each room lawfully used for sleeping purposes;

(2) each occupant is responsible for the maintenance and repair of such alarms and for replacing any or all such alarms that are stolen, removed, missing, or rendered inoperable during the occupancy of such dwelling unit; and

(3) the occupant of a dwelling unit in which a CO alarm is newly installed or in which a CO alarm is installed by the owner as a result of such occupant's failure to maintain such alarm or where such alarm has been lost or damaged by such occupant, shall reimburse the owner in the amount of \$25.00 per device for the cost of such work, and such occupant shall have one year from the date of installation to make such reimbursement.

(4) An owner may choose to post a single notice that complies with this provision as well as the provisions of 28 RCNY §12-01(b).

(5) The notice required by this subdivision shall conform with the following requirements:

(i) the notice shall have letters not less than three-sixteenths of an inch in height;

(ii) the lettering of the notice shall be of bold type and shall be properly spaced to provide good legibility and the background shall be of contrasting colors;

(iii) the notice shall be durable and shall be substantially secured to the common area where posted;

- (iv) the notice shall be of metal, plastic, or decal; and
- (v) lighting shall be sufficient to make the notice easily legible; and
- (vi) A sample of an approved notice is attached and made part of these rules.

(c) Replace any CO alarm that has been stolen, removed, found missing, or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant before the commencement of a new occupancy of the dwelling unit;

(d) Replace within 30 calendar days after receipt of written notice any such alarm that becomes inoperable within one year of the installation of such alarm due to a defect in the manufacture of such alarm through no fault of the occupant of the dwelling unit;

(e) Provide written information regarding the testing and maintenance of CO alarms to at least one adult occupant of each dwelling unit, including, but not limited to, general information concerning carbon monoxide poisoning and what to do if a CO alarm goes off. Such information may include material that is distributed by the manufacturer or any material prepared or approved by DOB;

(f) Keep the following records, on the premises unless another location is approved by HPD, relating to the installation and maintenance of CO alarms in the building:

- (1) date notice posted pursuant to §12-06(b) of this chapter;
- (2) date of installation of each CO alarm;
- (3) whether each CO alarm receives its primary power from the building wiring with secondary battery back-up, is a battery-operated alarm, or is a plug-in type CO alarm with a back-up battery;
- (4) apartment number and location within apartment where each alarm was installed;
- (5) date each alarm tested to determine if it is in operable condition;
- (6) maintenance work performed on each alarm; and
- (7) date occupant requested replacement/repair.

These records must be made available to HPD, DOB, the Fire Department, or the Department of Health and Mental Hygiene (“DOHMH”) upon request; and

(g) File a certification of satisfactory installation within 10 days after completion with the HPD Borough Division of Code Enforcement in the borough where the dwelling is located. This certification shall be set forth on a form available at each HPD Borough Office and/or on HPD's website.

§12-07. Owner Responsibilities for CO Alarms for Private Dwellings.

Pursuant to §27-2046.1 of the administrative code of the city of New York, the owner of a private dwelling that is required to be equipped with CO alarms pursuant to article 7 of subchapter 17 of chapter 1 of title 27 of the administrative code of the city of New York and as prescribed by DOB pursuant to chapter 28 of title 1 of the rules of the city of New York shall comply with the following requirements:

(a) Provide and install one or more approved and operational CO alarm in each dwelling unit, provided that there shall be installed at least one approved and operational CO alarm within 15 feet of the primary entrance to each room lawfully used for sleeping ,as prescribed in the DOB rules and regulations relating to CO alarms.

(b) For purposes of (c) through (g) of this section, "private dwelling" shall mean a dwelling unit in a one-family or two-family home that is occupied by a person or persons other than the owner of such unit or the owner's family.

(c) Provide notice in a form approved by the Department to the occupants of such dwelling that:

(1) the owner is required by law to install an approved and operational CO alarm in each dwelling or dwelling unit in the building, within 15 feet of the primary entrance to each room lawfully used for sleeping;

(2) each occupant is responsible for the maintenance and repair of such alarms and for replacing any or all such alarms that are stolen, removed, missing, or rendered inoperable during the occupancy of such dwelling or dwelling unit; and

(3) the occupant of a dwelling or dwelling unit in which a CO alarm is newly installed or in which a CO alarm is installed by the owner as a result of such occupant's failure to maintain such alarm or where such alarm has been lost or damaged by such occupant shall reimburse the owner in the amount of \$25.00 per alarm for the cost of such work, and the occupant shall have one year from the date of installation to make such reimbursement;

(d) Replace any CO alarm that has been stolen, removed, found missing, or rendered inoperable during a prior occupancy of the dwelling or dwelling unit and that has not been replaced by the prior occupant before commencement of a new occupancy of the dwelling or dwelling unit;

(e) Replace within 30 calendar days after receipt of written notice any such alarm that becomes inoperable within one year of the installation of such alarm due to a defect in the manufacture of such alarm through no fault of the occupant of the dwelling or dwelling unit;

(f) Provide written information regarding the testing and maintenance of CO alarms to at least one adult occupant of each dwelling or dwelling unit, including, but not limited to, general information concerning carbon monoxide poisoning and what to do if a CO alarm goes off. Such information may include material that is distributed by the manufacturer or any material prepared or approved by DOB; and

(g) Keep the following records relating to the installation and maintenance of CO alarms in the dwelling or dwelling unit:

(1) date of installation of each CO alarm;

(2) whether each CO alarm receives its primary power from the building wiring with secondary battery back-up, is a battery-operated device, or is a plug-in type CO alarm with a back-up battery;

(3) location within dwelling or dwelling unit where each alarm is installed;

(4) date each alarm was tested to determine if it is in operable condition;

(5) maintenance work performed on each alarm; and

(6) date occupant requested replacement/repair.

These records must be made available to HPD, DOB, the Fire Department, or DOHMH upon request.

§12-08. Occupant Responsibilities for CO Alarms for Class A Multiple Dwellings and Private Dwellings.

(a) Pursuant to §27-2046.1 of the administrative code of the city of New York, it shall be the sole duty of the occupant of each unit in a Class A multiple dwelling and the occupant of a dwelling or dwelling unit in a private dwelling in which a CO alarm has been provided and installed by the owner to:

(1) Keep and maintain such CO alarm in good repair; and

(2) Replace any alarm that is either stolen, removed, missing, or rendered inoperable during the occupancy of such dwelling or dwelling unit.

(b) The occupant of a dwelling or dwelling unit in which a CO alarm is newly installed or in which a CO alarm is installed by the owner as a result of such occupant's failure to maintain such alarm where such alarm has been removed or damaged by such occupant shall reimburse the owner in the amount of \$25.00 per alarm for the cost of such work. Such occupant shall have one year from the date of installation to make such reimbursement.

(c) Except as provided in §12-06(c) and (d) and §12-07(d) and (e) above, an owner who has provided and installed a CO alarm in a dwelling or dwelling unit shall not be required to keep and maintain such alarm in good repair or to replace any such alarm that is stolen, removed, or rendered inoperable during the occupancy of such dwelling or dwelling unit.

§12-09. Owner Responsibilities for CO Alarms for Class B Multiple Dwellings.

Pursuant to §27-2046.2 of the administrative code of the city of New York, the owner of a Class B multiple dwelling that is required to be equipped with one or more CO alarms pursuant to article 7 of subchapter 17 of chapter 1 of title 27 of the administrative code of the city of New York and as prescribed by DOB pursuant to chapter 28 of title 1 of the rules of the city of New York shall:

(a) Provide and install one or more approved and operational CO alarm in each dwelling unit or in the alternative, provide and install a line operated zoned CO detecting system with central annunciation and central office tie-in for all public corridors and public spaces;

(b) Keep and maintain CO alarms or systems in good repair;

(c) Replace any CO alarm that has been stolen, removed, found missing, or rendered inoperable prior to the commencement of a new occupancy of a dwelling unit;

(d) Keep the following records, on the premises unless another location is approved by HPD, relating to the installation and maintenance of CO alarms or systems:

(1) date of installation of each CO alarm or system ;

(2) whether the CO alarm receives its primary power from the building wiring with secondary battery back-up, is a battery-operated alarm, is a plug-in type CO alarm with a back-up battery, or in the alternative whether it is a line operated zoned CO detecting system with central annunciation and central office tie-in for all public corridors and public spaces;

(3) room number and location within room where each CO alarm was installed;

(4) date each alarm was tested to determine if it is in operable condition;

(5) maintenance work performed on each alarm;

These records must be made available to HPD, DOB, the Fire Department, or DOHMH upon request; and

(e) File certification of satisfactory installation within 10 days after completion with the HPD Borough Division of Code Enforcement in the borough where the dwelling is located. This

certification shall be set forth on a form available at each HPD Borough Office and/or on HPD's website.

§12-10. Form for Notices for CO Alarms

A sample form for providing notice to occupants pursuant to §12-06 is attached and made a part of this chapter.

<p><u>NOTICE</u></p> <p>The owner, _____, of this building located at _____ is required by law to post this notice advising tenants that the owner is required by law to provide a CO alarm in each apartment in this building within 15 feet of the primary entrance to each room lawfully used for sleeping. The law further makes the tenant of each apartment responsible for the maintenance and repair of the alarms installed in the apartment and for replacing any or all alarms that are stolen, removed, missing, or become inoperable during the occupancy of the apartment. The law also provides that the occupant of each Class A apartment in the building in which a CO alarm is provided and installed shall pay the owner \$25.00 per alarm for the cost of such work. The occupant has one year from the date of installation to make such payment to the owner.</p>
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STATEMENT OF BASIS AND PURPOSE

The Department of Housing Preservation and Development is amending Chapter 12 to include new provisions relating to owner and occupant responsibilities with respect to installation and maintenance of carbon monoxide detecting devices in multiple and private dwellings. These amendments are made in order to implement Local Law #7 of 2004, known as the New York City Carbon Monoxide Detecting Device Act of 2004. The rules specify the obligations of owners to install, maintain, and keep records relating to such devices, and the duties of occupants to reimburse an owner for such installation under certain circumstances and to maintain or replace such devices as specified herein.



City of New York
 DEPARTMENT OF
 HOUSING PRESERVATION AND DEVELOPMENT
 100 GOLD STREET, NEW YORK, N.Y. 10038

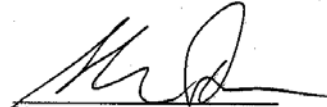
SHAUN DONOVAN
 Commissioner

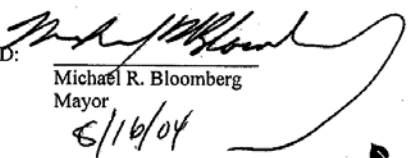
Statement of Substantial Need for Earlier Implementation

I hereby find, pursuant to New York City Charter §1043(e)(1)(c), and hereby represent to the Mayor, that there is substantial need for the implementation of amendments to Chapter 12 of Title 28 of the Rules of the City of New York governing carbon monoxide detecting devices and systems, upon the publication in *The City Record* of the Notice of Adoption.

Local Law No. 7 of 2004 (Local Law No. 7), which becomes effective November 1, 2004, requires the installation of carbon monoxide detecting devices in buildings classified in Building Code occupancy groups G, H-2, J-1, J-2, and J-3. Local Law No. 7 further requires that the Department of Housing Preservation and Development, in consultation with the Fire Department and the Departments of Buildings and Health and Mental Hygiene, promulgate rules clarifying the duties of owners and occupants with respect to installing and maintaining carbon monoxide detecting devices and systems. Finally, Local Law No. 7 requires that the Department of Housing Preservation "take all actions necessary for ... implementation, including the promulgation of rules" no later than forty-five days prior to the effective date. Thus, the Department is required to amend Chapter 12 of Title 28 of the Rules of the City of New York on or before September 17, 2004.

Pursuant to the statutory mandate, the proposed rule sets forth the owners' responsibilities to install carbon monoxide detecting devices and systems, provide certain notices to occupants, keep records relating to installation, file a certification of satisfactory installation with the Department, and replace such devices and systems under certain circumstances. The rule also sets forth the responsibilities of occupants to reimburse owners for installation of such devices, to keep and maintain the device in good repair, and replace any alarm that is stolen, removed, missing, or rendered inoperable during the occupancy of the dwelling unit. A public hearing on the proposed rule was held on August 12, 2004. Early implementation of the rule is necessary to ensure that owners have advance notice of the requirement to install and maintain carbon monoxide detecting devices prior to the beginning of the heating season, and so that the Department may meet the statutory rule promulgation deadline set forth in Local Law No. 7.


 Shaun Donovan
 Commissioner
 Department of Housing
 Preservation and Development

APPROVED: 
 Michael R. Bloomberg
 Mayor
 8/16/04



(212) 863-6100

FAX (212) 863-6302

TTY (212) 863-7934