

CITY OF NIAGARA FALLS

By-law No. 2009 - 46

A by-law to require owners of residential dwelling units, hotels, and boarding, lodging or rooming houses to install and maintain carbon monoxide warning equipment in buildings.

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that a municipality has the authority to enact by-laws for the safety of persons and the protection of persons and property;

AND WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that a municipality has the capacity, rights and powers and privileges of a natural person for the purpose of exercising its authority and that it may do so by by-law;

AND WHEREAS it is the opinion of the Council for The Corporation of the City of Niagara Falls that the health and safety of persons and property within Niagara Falls would be enhanced by the mandatory installation of carbon monoxide alarms;

AND WHEREAS section 425 of the *Municipal Act*, establishes that any person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS section 446(3) of the *Municipal Act* provides that the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

THE DEFINITIONS

1. Definitions:

- 1.1 The definitions in the *Building Code Act* or the Building Code are applicable to this by-law.
- 1.2 Any definition of any word or phrase that appears in this by-law that is identical to any word or phrase as defined in the *Building Code Act* or the Building Code, appears in this by-law for purposes of convenience only and should not be construed in any way to be a different definition of such word or phrase.
- 1.3 The following terms shall mean the following in this by-law:
 - (a) "Boarding, lodging or rooming house" means a building:
 - (i) that has a building height not exceeding three storeys and a building area not exceeding 600 square metres;

- (ii) in which lodging is provided for more than four persons in return for remuneration or for the provision of services or for both; and
 - (iii) in which the lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants.
- (b) “City” means The Corporation of the City of Niagara Falls.
- (c) “carbon monoxide alarm” means a combined carbon monoxide detector and audible alarm device that shall:
 - (i) be permanently connected to an electrical circuit and shall have no disconnect switch between the overcurrent device and the carbon monoxide alarm;
 - (ii) be wired so that its activation will activate all carbon monoxide alarms within the suite, where located within a suite of residential occupancy;
 - (iii) be equipped with an alarm that is audible within bedrooms when the intervening doors are closed, where located in a suite of residential occupancy; and
 - (iv) conform to:
 - (i) CAN/CSA-6.19, “Residential Carbon Monoxide Alarming Devices”,
or
 - (ii) UL 2034, “Single and Multiple Station Carbon Monoxide Alarms”,
or any standard amending these standards enacted in their place.
- (d) “dwelling unit” means a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.
- (e) “Fire Prevention Officer” means a member of the Fire Prevention Bureau of the Niagara Falls Fire Services and includes the Fire Chief and any member of the Niagara Falls Fire Services designated by the Fire Chief as an assistant to the Fire Marshall.
- (f) “fuel burning appliance” means a device that burns solid, liquid or gaseous fuel or a combination thereof.
- (g) “hotel” means floor areas, a floor area or part of a floor area that contains four or more suites and that provides sleeping accommodation for the travelling public or for recreational purposes.

- (h) “owner” means any person, firm or corporation having control over any portion of the building or property under consideration and includes the persons inside the building or property and the “owner” of a dwelling includes, without limitation, any person for the time being managing or receiving the rent of the dwelling, whether on the person’s own account or as agent or trustee of any other person, or who would so receive the rent if the dwelling were let. Without limitation, the term includes a lessee or occupant who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for its maintenance and occupancy.
- (i) “suite”, for the purposes of this by-law and notwithstanding section 1.1 hereof, is defined as a single room or series of rooms of complementary use, operated under a single tenancy, and includes:
 - (i) dwelling units; and
 - (ii) individual guest rooms in motels, hotels, boarding houses, rooming houses and dormitories.

THE REGULATIONS

2. Installation of Carbon Monoxide Alarms:

- 2.1 All carbon monoxide alarms shall be installed in accordance with the manufacturer’s installation instructions.
- 2.2 All carbon monoxide alarms shall be located so that accidental operation will not be caused by jarring or vibration.
- 2.3 All carbon monoxide alarms shall be tested in accordance with the manufacturer’s instructions to ensure operation after installation.
- 2.4 All carbon monoxide alarms shall be restored to their normal mode of operation after each alarm or test.
- 2.5 In the case of rental properties the landlord shall provide a copy of the carbon monoxide alarm manufacturer’s maintenance instructions to the tenant of each rental dwelling unit.
- 2.6 In addition to subsection 2.1 above, the owner shall ensure that carbon monoxide alarms are installed in compliance with the following:
 - (1) Where a fuel burning appliance is installed in a suite of residential occupancy, a carbon monoxide alarm shall be installed adjacent to each sleeping area in the suite.
 - (2) Where a fuel burning appliance is installed in a service room that is not in a suite of residential occupancy, a carbon monoxide alarm shall be installed:

- (a) adjacent to each sleeping area in every suite of residential occupancy that is adjacent to the service room; and
 - (b) in the service room.
- (3) Where a storage garage is located in a building containing a residential occupancy, a carbon monoxide alarm shall be installed adjacent to each sleeping area in every suite of residential occupancy that is adjacent to the storage garage.
- 2.7 All alarm sound appliances shall have a minimum rating of 85 dBA at three metres. When alarm notification appliances for the hearing impaired are provided, each initiating device shall cause the operation of a visible alarm signal or the operation of a listed tactile notification appliance.
- 2.8 Carbon monoxide alarms shall be maintained in operating condition by the owner.

THE DUTY OF THE OWNER

3. Duty of Owner:

- 3.1 It shall be the duty of every owner to comply with the regulations set out in section 2 of this by-law.
- 3.2 It shall be an offence for the owner of any property to fail to comply with the requirements of the regulations set forth in section 2 of this by-law.

ENFORCEMENT

4. Enforcement:

- 4.1 The Fire Chief, all Fire Prevention Officers and all assistants to the Fire Marshall designated by the Fire Chief are appointed for the purpose of administering and enforcing this by-law.

THE OFFENCES AND PENALTIES

5. Offences and Penalties:

- 5.1 No person shall hinder, obstruct or interfere with a person duly appointed to enforce this by-law in the exercise of his or her powers and duties.
- 5.2 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine of up to Five Thousand Dollars (\$5,000.00).
- 5.3 In the event that an owner does not comply with the regulations set out in section 2 of this by-law, a Fire Prevention Officer may install the required carbon monoxide alarms or arrange

for installation of same by a person, firm or corporation qualified to do so, and the cost of such installation shall be added to the owner's tax roll entry for the building or property under consideration, to be collected in the same manner as municipal taxes.

GENERAL

6. General:

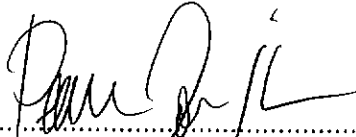
- 6.1 Each provision of this by-law is independent of all other provisions, and if any provision is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this by-law remain valid and enforceable.
- 6.2 Nothing in this by-law relieves a person from complying with any provision of any federal or provincial law or regulation, other by-law, or any requirement of any lawful permit, order or license.
- 6.3 This by-law may be cited as "The Carbon Monoxide Alarm By-law".
- 6.4 This by-law shall come into force and effect on the day it is passed.

REPEAL

7. Repeal:

- 7.1 By-law No. 2008-205 is hereby repealed.

Passed this twenty-third day of March, 2009.


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DEAN IOREIDA, CITY CLERK


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R.T. (TED) SALCI, MAYOR

First Reading: March 23, 2009.
Second Reading: March 23, 2009.
Third Reading: March 23, 2009.