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CLERK OF THE
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CITY OF MICHIGAN CITY

BY: IDHS / FPBSC

MICHIGAN CITY COMMON COUNCIL
ORDINANCE NO. 4446

CREATING ARTICLE VI IN CHAPTER 54 OF THE MICHIGAN CITY MUNICIPAL CODE TO REQUIRE THE INSTALLATION OF CARBON MONOXIDE DETECTORS IN ALL NEW CONSTRUCTION

WHEREAS, carbon monoxide poisoning is a serious public health concern; and

WHEREAS, thousands of individuals are poisoned each year from carbon monoxide requiring medical treatment and in the United States, the average deaths occurring each year from carbon monoxide poisoning is approximately 430¹; and

WHEREAS, as of January 2017, over half of the states in the U.S. have enacted legislation requiring the installation of carbon monoxide detectors in residential dwelling units², however, the Indiana General Assembly has not yet adopted such legislation; and

WHEREAS, within the last year, the City of LaPorte enacted local legislation requiring that all new construction for Class 2 structures for which a building permit is issued and having a fire place, attached garage, or fossil fuel burning building must be equipped with a carbon monoxide detector, and said ordinance was approved by the Indiana Fire Prevention and Building Safety Commission³;

WHEREAS, the Michigan City Fire Chief and Fire Marshal reasonably believe that it would be in the best interest of the City of Michigan City and the residents herein that local legislation be enacted requiring the installation of carbon monoxide detectors in all new construction for Class 2 Structures for which a building permit is issued and having a fireplace, attached garage, or fossil fuel burning building; and

WHEREAS, the Michigan City Common Council desires to implement the recommendations of the Michigan City Fire Chief and Fire Marshal and reasonably believes that such legislation is in the best interest of the City and the residents herein.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, Indiana, that Article VI entitled "Carbon Monoxide Detector(s)" is hereby created in Chapter 54 of the Michigan City Municipal Code and shall read as follows:

ARTICLE VI. CARBON MONOXIDE DETECTOR(S)

Sec. 54-279. Definitions.

- (a). "Carbon monoxide detector(s)" means a device that detects carbon monoxide, alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection, and is certified by a nationally recognized testing laboratory to conform to the latest standards of the underwriters laboratories standards.
- (b). "Operational" means working and in service.

Sec. 54-280. Applicability.

- (a). Carbon monoxide detector(s) required. For every Class 2 Structure for which a building permit is issued for new construction on and after January 1, 2018, and having a fireplace, attached garage, or fossil fuel burning building, carbon monoxide detector(s)

¹ See <http://www.poison.org/poison-statistics-national>; see also <http://www.carbonmonoxidekills.com/are-you-at-risk/carbon-monoxide-deaths/> and <https://www.cdc.gov/mmwr/volumes/66/wr/mm6608a9.htm>.

² See <http://www.ncsl.org/research/environment-and-natural-resources/carbon-monoxide-detectors-state-statutes.aspx>.

³ See https://www.southbendtribune.com/news/publicsafety/indiana-approves-laporte-law-requiring-carbon-monoxide-detectors/article_00e4dbbd-f149-5c89-b183-6ad346977d4d.html.

CC's Fire Dept.
Planning x3
Code Compliance x2
Corporate Counsel x2
Inspection Dept.

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shall be required. A Certificate of Occupancy shall not issue for any new construction not in compliance with this Article.

- (b). Maintenance. It shall be unlawful for any person to tamper with or remove any carbon monoxide detector(s) or its batteries except when it is necessary for maintenance or inspection purposes. Any carbon monoxide detector removed for repair or replacement shall be re-installed or replaced so that it is in place with functioning batteries during normal sleeping hours.
- (c). Duties of Owners. Every owner of any Class 2 Structure to which this Article applies shall be responsible for the installation, maintenance, and repair of all carbon monoxide detector(s) in said structure.


Sec. 54-281. Enforcement; Penalties; and Injunctive Relief.

- (a). Enforcement. The Planning and Inspection Department and the Fire Department of the City shall be authorized to inspect any Class 2 Structure to which this Article applies with the consent of the owner or tenant or by order of the court.
- (b). Penalties; Injunctive Relief. Whoever violates any provisions of this Article shall be fined as set forth in Sec. 50-284. Every day a violation occurs shall constitute a separate offense as prescribed in Sec. 1-7. In addition to pursuing monetary penalty as prescribed in Sec. 50-284, the City may bring an action for injunctive relief to enforce any provision of this Article.

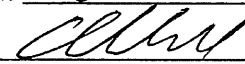
Sec. 54-282. Conflict with other standards.

In the event a provision of this Article is found to be in conflict with any provisions set forth by the Indiana Department of Homeland Security, Building Code, or International Fire Code, the provisions of the Indiana Department of Homeland Security, Building Code, or International Fire Code shall be deemed to prevail.


This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: 
Chris Schwanke, President
Michigan City Common Council

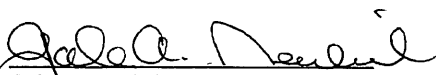
Passed by the Common Council of the City of Michigan City, Indiana, this 17th day of October, 2017 by a vote of 9 to 0.


Chris Schwanke, President
Michigan City Common Council

Approved by me, this 18th day of October, 2017.


Ron Meer, Mayor
City of Michigan City, Indiana

ATTEST:


Gale A. Neulieb, Clerk
City of Michigan City, Indiana

Prepared by Corporation Counsel Upon Request

Boyle, Douglas J (DHS)

From: Kyle Kazmierczak <kkaz@emichigancity.com>
Sent: Monday, October 23, 2017 10:24 AM
To: Boyle, Douglas J (DHS)
Subject: FW: CO Ordinance
Attachments: CO Ordinance number 4446.pdf

Importance: High

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Good Morning Mr. Boyle,

I'm forwarding you this email pursuant to Beth Sutor's automatic out of office reply

Kyle A. Kazmierczak

Fire Marshal
Michigan City Fire Department

From: Kyle Kazmierczak
Sent: Monday, October 23, 2017 8:51 AM
To: 'dfitzpatrick@dhs.in.gov' <dfitzpatrick@dhs.in.gov>; 'Sutor, Beth' <bsutor@dhs.IN.gov>
Cc: Randy Novak <rnovak@emichigancity.com>
Subject: CO Ordinance
Importance: High

Good Morning,

The Michigan City Fire Department is requesting that the attached Carbon Monoxide Ordinance be placed on the November agenda for review.

Thank you in advance

Kyle A. Kazmierczak | Fire Marshal
Michigan City Fire Department
2510 E. Michigan Blvd.
Michigan City, IN 46360
(219) 873-1453 – Office
(219) 898-1263 – Cell
www.kkaz@emichigancity.com



Indiana Apartment
Association

9100 Keystone Crossing, Suite 725
Indianapolis, Indiana 46240
317-816-8900 FAX 317-816-8911
www.iaaonline.net

Members of the Fire Prevention and Building Safety Commission
302 W. Washington Street, Room E208
Indianapolis, Indiana 46204
Delivered via E-mail

November 2, 2017

Dear Commission Members,

The Indiana Apartment Association (IAA) represents roughly 230,000 professionally managed multifamily units around the state and its membership has historically been strong supporters of having statewide codes. These codes create consistency and the ability to easily understand what is expected with regards to building, plumbing and electrical matters. Members also understand that under certain circumstances they can apply to this Commission to request a variance. IAA and its membership continues to believe it is best to have statewide codes, especially when thinking that every local community could instead review and adopt their own codes which would create inconsistency throughout the state. Requirements that vary from community to community can be very difficult to keep track of, resulting in unintentional noncompliance and believe this is why the Commission also has the authority to review and make decisions on local ordinances impacting the building code.

The Michigan City Council recently adopted an ordinance to require carbon monoxide detectors be placed in certain new single and multifamily properties. This ordinance will be reviewed by the Commission in the near future and ask that you protect the statewide code by rejecting the language and prevent it from being enforced. References to carbon monoxide detectors was intentionally deleted from the commercial code during its last review and ask that you uphold this decision here. This ordinance in particular opens rental property owners to serious new liability because it does not provide the same protection found within state law on smoke detectors. Properties currently provide working smoke detectors as evidenced by the sign-off from a new resident prior to moving. After acknowledging the detectors are present and in working order it is the resident's responsibility to ensure they remain functional and are not disabled. If there becomes an issue with the device(s) the resident must notify the property owner. Highlighted portions of applicable state law are included on page two of this letter. Instead of mirroring state law with regard to smoke detectors, this ordinance places the liability and burden for carbon monoxide detectors on the property owner. Similar to smoke detectors, a property owner cannot check to ensure the device is present and operable each day but the ordinance reads that the owner is responsible for the installation, maintenance and repair of all detectors within the building. The specific language of concern from the ordinance is found on page two and pasted below.

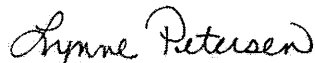
- (b). Maintenance. It shall be unlawful for any person to tamper with or remove any carbon monoxide detector(s) or its batteries except when it is necessary for maintenance or inspection purpose. Any carbon monoxide detector removed for repair or replacement shall be re-installed or replaced so that it is in place with functioning batteries during normal sleeping hours.
- (c). Duties of Owners. Every owner of any Class 1 Structure or Class 2 Structure to which this Article applies shall be responsible for the installation, maintenance, and repair of all carbon monoxide detector(s) in said structure.

Sec. 54-281. Enforcement; Penalties; and Injunctive Relief.

- (a). Enforcement. The Planning and Inspection Department and the Fire Department of the City shall be authorized to inspect any Class 1 Structure or Class 2 Structure to which this Article applies with the consent of the owner or tenant or by order of the court.
- (b). Penalties; Injunctive Relief. Whoever violates any provisions of this Article shall be fined as set forth in Sec. 50-284. Every day a violation occurs shall constitute a separate offense as prescribed in Sec. 1-7. In addition to pursuing monetary penalty as prescribed in Sec. 50-284, the City may bring an action for injunctive relief to enforce any provision of this Article.

Understanding that the Commission has been put in a position where at least in the short-term there is the possibility of additional requests for mandates after the LaPorte language was approved, we respectfully ask that this and other local ordinances on the topic be denied. We ask that supporters of such a mandate go through the appropriate code request channels. The Michigan City language is very concerning for rental properties and should be noted that it is not consistent, even between the three communities which have adopted it in the recent months. Please let us know if you have any questions on this and do plan to attend the upcoming Commission meeting in case this language is discussed.

Respectfully,



Lynne Petersen
President



Gretchen White
Director of Government Affairs

State Statute

IC 32-31-7-5 Tenant obligations

Sec. 5. A tenant shall do the following:

- (1) Comply with all obligations imposed primarily on a tenant by applicable provisions of health and housing codes.
- (2) Keep the areas of the rental premises occupied or used by the tenant reasonably clean.
- (3) Use the following in a reasonable manner:
 - (A) Electrical systems.
 - (B) Plumbing.
 - (C) Sanitary systems.
 - (D) Heating, ventilating, and air conditioning systems.
 - (E) Elevators, if provided.
 - (F) Facilities and appliances of the rental premises.
- (4) Refrain from defacing, damaging, destroying, impairing, or removing any part of the rental premises.
- (5) Comply with all reasonable rules and regulations in existence at the time a rental agreement is entered into. A tenant shall also comply with amended rules and regulations as provided in the rental agreement.
- (6) Ensure that each smoke detector installed in the tenant's rental unit remains functional and is not disabled. If the smoke detector is battery operated, the tenant shall replace batteries in the smoke detector as necessary. If the smoke detector is hard wired into the rental unit's electrical system, and the tenant believes that the smoke detector is not functional, the tenant shall provide notice to the landlord under IC 22-11-18-3.5(e)(2).

This section may not be construed to limit a landlord's obligations under this chapter or IC 32-31-8.

As added by P.L.92-2002, SEC.1. Amended by P.L.17-2008, SEC.5.

IC 32-31-5-7 Written acknowledgement by tenant

Sec. 7. (a) At the time a landlord delivers a rental unit to a tenant, the landlord shall require the tenant to acknowledge in writing that the rental unit is equipped with a functional smoke detector.

(b) A landlord and a tenant may not waive, in a rental agreement or a separate writing, the requirements under IC 22-11-18-3.5 concerning smoke detectors.

As added by P.L.17-2008, SEC.4.

Boyle, Douglas J (DHS)

From: Nicoson, Robin <nicosonr@fishers.in.us>
Sent: Thursday, November 02, 2017 1:38 PM
To: Boyle, Douglas J (DHS)
Subject: FW: Michigan City Carbon Monoxide Ordinance
Attachments: Letter on Michigan City Carbon Monoxide Ordinance 11-17.pdf

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

From: Gretchen White [mailto:gretchen@iaaonline.net]
Sent: Thursday, November 02, 2017 11:38 AM
To: Gretchen White <gretchen@iaaonline.net>
Cc: Lynne Petersen <lynne@iaaonline.net>
Subject: Michigan City Carbon Monoxide Ordinance

EXTERNAL SENDER: Please exercise increased caution. Do not open attachments or click links from unknown senders or unexpected email messages.

Members of the Fire Prevention and Building Safety Commission,

IAA was recently made aware that the Michigan City Council has adopted an ordinance requiring carbon monoxide detectors in certain Class 1 and Class 2 properties. We are unsure if the language was submitted in time for review at the November meeting or if it might be considered in December so wanted to send you the attached letter on behalf of membership. Please don't hesitate to contact us with questions and would be happy to discuss this further.

Thanks,
Gretchen White

Gretchen E. White
Director of Government Affairs
Indiana Apartment Association
9100 Keystone Crossing, Suite 725
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Cell: (317) 270-8247
[Indiana Apartment Association](#)

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Dear Commissioner,

Since most of you are newly appointed, I introduce myself, Dot Kesling, Founder of the Lindsey O'Brien Kesling (LOK) Wishing Tree Foundation. I appealed to the Fire Prevention and Building Safety Commissioners 3 consecutive months in support of La Porte's CO Ordinance.

I began the grassroots movement, appealing to city/counties.

I was asked by the previous Chairman Hawkins, why I didn't address the commission years ago and ask them to add CO language to their building code??

My answer....

".....hearing all of you talk about needing consistent language across the board and knowing that you're still operating from a very archaic building code, why would I want to waste your time and mine and go through the laborious process? For the past 5 years I've worked with Senators and House Rep's to author and cover CO Bills, in hopes to have one blanket consistent protection at a state level. Each time the Bill was shot down, never to be heard. The opposing groups and their lobbyist don't want it....."

Thus, began our appealing process to each municipality. Why should Hoosiers go unprotected, just because the state has neglected updating their code? In fact, since 2009, the state had 3 opportunities to amend and add CO protection and did not.

La Porte's CO Ordinance was amended, per the Commissions instructions. (btw, there is NO sunset clause in LP's ordinance. A ridiculous statement as each city/county would gladly sunset to the state's CO protection requirements.) This ordinance is setting the standard and is the consistency that other cities can use, while the IRCC has begun the 'arduous' process of bringing the state building code up to date.

The denial of Chesterton's ordinance was unwarranted and frankly just wasting time.

Michigan City's CO ordinance is on your agenda Wednesday 11/8.

Before their final reading, I asked them to change areas within so theirs would read similar to La Porte's. They deserve to offer the same protection to their citizens.

We all know that it is no longer the Fiscal Impact to hide behind. The cost of these units can be as little as 27\$ per alarm. That's 2.70\$ per

year, less than 25 cents per month. And we all know that any cost by the builder is passed on to the homeowner.

The 'white elephant', the impacts that know one speaks of, are the 'regulations' the IBA doesn't want, event if it means preventing deaths.

The SOCIETAL impact is the number that should be discussed, the millions of dollars associated with CO poisoning. . Death, er, funerals, loss of jobs, etc...all due to exposure to this Silent Killer.

Think about this: we all expect and there are laws that require spoke alarms in all types of housing and yet, you can see smoke, smell smoke, and feel heat. But with carbon monoxide, you can't see it, you can't smell it, and it can disorient you so quickly as it did my daughter, that you can't call for help.

Don't be deceived by those who have misrepresented costs or tried to complicate this requirement. What we are asking is so reasonable, so inexpensive, and so life-saving.

Please, I implore you, as the mother of an amazing young woman who had so much to offer the world and was so passionate about making the world a better place, but died because there was no C.O. alarm in her home, allow these communities the right to protect their constituents/families until at which time Indiana's building code is amended and updated to require CO protection.

Respectfully,

Dot Kesling
219-796-4847



Lindsey O'Brien Kesling
Wishing Tree Foundation

<http://www.lokwishingtree.org>

<https://www.facebook.com/lokwishingtree/>

<https://www.instagram.com/lokwishingtree/>