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REPORT OF THE COMMITTEE ON PUBLIC INFRASTRUCTURE AND TECHNOLOGY

Voting Members:
Carol Fukunaga, Chair; Andria Tupola, Vice-Chair;
Brandon J.C. Elefante, Heidi Tsuneyoshi

Committee Meeting Held
March 2, 2022

Honorable Tommy Waters
Council Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Public Infrastructure and Technology ("PIT"), which considered Bill 37 (2021), CD1, entitled:

"A BILL FOR AN ORDINANCE RELATING TO FIRE SAFETY,"

introduced on September 2, 2021, and which passed Second Reading and was the subject of a Public Hearing held at the Council meeting on November 10, 2021, reports as follows:

The purpose of the bill is to update the Fire Code of the City and County of Honolulu to address concerns and challenges raised by owners of dwelling units in high-rise residential buildings affected by the fire sprinkler retrofit or alternative fire safety system requirements of Ordinance 19-4.

After numerous committee meetings, informational briefings, and panel discussions with residential high-rise condominium/cooperative managers, community stakeholders, industry professionals, and city agencies, your Committee finds that the requirements of Ordinance 19-4 (Bill 96 (2018), CD1, FD1) have become far more burdensome and cost-prohibitive than was envisioned when its predecessor, Ordinance 18-14 (Bill 69, (2017) CD2, FD2) was adopted in 2018.

In the aftermath of the Marco Polo high-rise fire in 2017, Ordinance 18-14 and Ordinance 19-4 were viewed as a compromise between the City's strong advocacy for a fire sprinkler retrofit law that could potentially prevent future deaths from high-rise fires, and residential high-rise condominium/cooperative managers, Association of Apartment Owners ("AOAO") organizations, and individual dwelling unit owners who viewed fire

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sprinkler retrofit requirements as an extreme safety measure that was too expensive for condominium/cooperative associations with aging residential buildings and elderly owners to afford without some form of financial assistance.

First, your Committee notes that many City emergency functions have been constrained during the past two years of COVID-19 pandemic-related shutdowns, or diverted to address public health/COVID testing and vaccination needs. At the same time, residential high-rise condominium/cooperative associations, individual dwelling unit owners, management representatives, the legal/insurance industry, and other regulatory advisors have faced equally-daunting challenges in satisfying basic annual meeting requirements and the adoption of reserve plans and budgets to comply with State-mandated requirements to plan and budget for necessary long-term repair/maintenance needs for their residential high-rise properties.

Consequently, it is not surprising that the level of condominium/cooperative community outreach, training, and education envisioned by the Honolulu City Council when in August 2018, it adopted Resolution 18-157, FD1 (Urging the Honolulu Fire Department to hold its Guidance for Use of the Building Fire and Life Safety Evaluation Worksheet pending Public Review), has not materialized (see the following excerpt from Committee Report No. 262 (2018), dated August 15, 2018):

"The Chief explained that, while the Guide was prepared for design professionals to use in interpreting the building fire and life safety evaluation worksheet, its online posting and public distribution has caused confusion among condominium property managers, condominium board members, residents, and other members of the general public. He said that the Department will start a formal educational outreach program for design professionals, AOAO managers, and AOAO boards of directors to explain how the life safety evaluation process will work and how the scoring will be conducted and evaluated by HFD.

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The Chief also acknowledged concerns raised over interpretations of such criteria as 'mobility' ratings of residents who are unable to walk unassisted through safety stairwells during fire evacuations, and he noted that the Department recognizes that most buildings subject to the life safety evaluation requirement will have many residents that will be in need of assistance during evacuations...

...Your Committee finds that the concerns that have arisen since the posting of the Guide illustrate the need for additional communication and dialogue. Outreach and education by the HFD will help to address and correct misinformation, as well as lead to a revised Guide that is understood by those who will be subject to its requirements and responsible for paying for corrective improvements authorized by their condominium boards and condo owners.

Your Committee therefore urges the Honolulu Fire Department to reach out to educate condo residents, AOAO board members, association representatives, and interested residents and condo stakeholders about the Guide before its implementation, and recommends that the Department provide the same technical information to all participants to assure that everyone is on a level playing field."

Honolulu Fire Department's ("HFD's") responses to the PIT Committee's questions in follow up to its meeting on February 24, 2022 (see Departmental Communication 146 (2022)), reported on the HFD's convening of 14 meetings in 2018, 14 meetings in 2019, one meeting in 2020, seven meetings in 2021, and two meetings in 2022 to provide educational outreach and training to building and property managers, AOAO representatives, condominium/cooperative advocacy organizations, and licensed design professionals.

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However, during the PIT Committee meetings on June 29, 2021, November 3, 2021, and November 17, 2021, and the PIT Committee's Permitted Interaction Group ("PIG") meeting on February 16, 2022, most complaints regarding the Life Safety Evaluation ("LSE") worksheets, inconsistencies in scoring among design professionals, accountability and transparency in terms of information provided to the HFD by design professionals and to condominium/cooperative associations by design professionals showed that the LSE process was becoming a financial quagmire for associations that performed their due diligence in: (1) reporting their intentions to submit a LSE to HFD in 2021; and (2) having their contracted design professional submit their LSE forms to the HFD in 2022.

Moreover, as reported in HFD updates on the status of LSE submittals from November 2019 to February 3, 2022 (see Council Communication 55 (2022)), summarizing eight status updates from HFD between 2019 and 2022, only 12 buildings had achieved an "acceptable" score out of 323 residential high-rise properties subject to Ordinance 19-4 requirements (see Departmental Communication 99 (2022)).

This number of buildings that received an "acceptable" score is shockingly low when viewed against the backdrop of 240 residential high-rise properties reported as having contracted with a licensed design professional, 178 residential high-rise properties that submitted their completed LSE to HFD, and 145 residential high-rise properties that had not submitted a LSE to HFD as of February 3, 2022.

The low number of residential high-rise properties that had received an "acceptable" score out of 323 high-rise properties is even more concerning when most of the LSE low scores are in the "vertical openings" and "fire alarm systems" categories, which were identified as sources of concern among condominium/cooperative associations, management organizations, advocacy representatives, and individual dwelling unit owners since June 2021.

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In Departmental Communication 581 (2021), dated August 10, 2021, the HFD reported eight residential high-rise properties out of roughly 322 properties had received "passing" scores, 67 buildings did not have a fire alarm system ("FAS") or the system was not operational or compliant, 86 buildings had two or more floors with vertical openings and did not have a FAS or the system was not operational or compliant or could not be manually initiated to notify occupants without voice communication.

In Departmental Communication 99 (2022), dated February 3, 2022, the HFD reported 12 high-rise properties out of 323 properties had received "acceptable" scores, 146 buildings were reported with low scores in the vertical openings category, and 157 buildings were reported with low scores in the FAS category.

With respect to the financial assistance that was identified by residential high-rise building managers, condominium/cooperative associations, and individual dwelling unit owners as a critical component of the City's mandatory fire sprinkler retrofit or alternative fire systems laws, your Committee finds that minimal activity has resulted from the real property tax incentive adopted in 2018 (see Ordinance 18-9) to provide individual unit owners with a real property tax credit of $2,000 for installation of automatic fire sprinklers within their residential high-rise properties.

The Department of Budget and Fiscal Services reported that two applications had been received for the Automatic Sprinkler Tax Credit established in Section 8-14.3, Revised Ordinances of Honolulu (see Departmental Communication 134 (2022), dated February 23, 2022). However, the condominium associations for the residential high-rise buildings had not provided a "completed certificate," so the applications have been viewed as incomplete.

The tax credit is available upon application by an individual dwelling unit owner no later than 24 months after the installation of automatic sprinklers within the

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residential high-rise building in which the applicant resides, and must be accompanied by a "completion certificate" issued by the Department of Planning and Permitting.

The fact that the real property tax credit for installation of automatic sprinkler systems has barely been utilized is explained by the City's testimony (see Mayor's Message 12 (2018), dated January 29, 2018) on the legislation that showed it was intended to be limited in scope:

1. *The property tax credit should only be made available for sprinkler systems installed in existing high-rise residential buildings with floors used for human occupancy located more than 75 feet above the highest grade and built prior to 1993.*
2. *The property tax credit [should] be limited to $2,000 per unit.*
3. *The property tax credit [should] only be available to owners of units with home exemptions.*
4. *The property tax credit [should] be able to be claimed over multiple years since many owners will pay less than $2,000 a year in property taxes.*
5. *The property tax credit application [should] be filed by the unit owner no later than 24 months after the installation of the sprinkler system.*

The Administration estimates that there are 6,454 units that may qualify for a property tax credit under these guidelines. If all units receive the credit, the foregone property tax revenue will be $12.9 million, spread over a number of years as the sprinkler systems are installed.

Other financial assistance programs supported when Ordinance 18-9 was under consideration included: (1) waivers of plan review fees and building fees; and (2) grants for sprinkler installations to low-income owner-occupants of existing high-rise buildings. The grant program was envisioned to become part of the City's Community Development Block Grant Action Plan in future years as existing residential high-rise

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buildings began installing sprinkler systems (see Mayor's Message 12, dated January 29, 2018).

More recently, Bill 35 (2021), relating to real property taxation, introduced on August 5, 2021, sought to expand the scope of financial assistance to include fire safety improvements and develop a longer-term program for assistance. The bill has not been scheduled for any committee meetings. Bill 44 (2021), relating to fire safety improvements, introduced on November 4, 2021, called for the establishment of a special fund into which moneys could be deposited to assist with fire safety improvements. The bill was heard by the Budget Committee on February 9, 2022, and action has been postponed to a date and time to be determined by the Committee Chair.

The Permitted Interaction Group's ("PIG's") Draft Report (see Council Communication 43 (2022), dated February 11, 2022) included summaries of smaller municipal jurisdictions that have provided loan or grant programs to assist commercial or residential building owners in retrofitting their properties with automatic fire sprinkler systems; however, your Committee finds that most municipalities of comparable size to Honolulu have not adopted legislation that require fire sprinkler retrofits for private, residential high-rise properties when new Fire Code requirements are adopted (see Exhibit A, Council Communication 43 (2022), dated February 11, 2022). To illustrate the scope of Ordinance 19-4, the HFD has reported that 38,747 individual dwelling unit owners in 323 Honolulu high-rise properties are subject to the law (see Departmental Communication 112 (2022), dated February 15, 2022).

At the time that the legislation mandating automatic fire sprinkler retrofits or alternative fire alarm systems was adopted in 2018 (and updated in 2019-2020), no one could have predicted that a global pandemic would have such a profound impact upon Hawaii's economy, public health services, government operations, and upon the lives of

thousands of Hawaii condominium/cooperative association residents whose jobs and lifestyles have been disrupted.

During PIT Committee and PIG meetings in 2021-2022, reports from individual condominium/cooperative dwelling unit owners, their associations, building management companies, the legal/insurance industry, and regulatory advisors (see Draft Report of the Permitted Interaction Group, Council Communication 43 (2022), dated February 11, 2022) pointed out that:

- *Most condo/co-op associations were pursuing alternative fire safety systems rather than installation of automatic fire sprinklers.*
- *Many condo/co-op associations reported difficulties in obtaining reliable cost estimates for automatic fire sprinkler systems or alternative fire safety systems, citing changes in construction conditions and other reasons for changes in cost estimates for projects.*
- *Most condo/co-op associations were experiencing construction delays, supply chain delays and other unexpected impacts of the global pandemic that made it difficult to complete their state-mandated maintenance projects through condo reserves.*

As such, your Committee finds that the original assumptions and conditions that the Honolulu City Council relied upon to adopt Ordinance 18-14 and Ordinance 19-4 no longer match today's reality. Much of the desired outreach, education, and training on the LSE process has not occurred at a level that makes it possible for at least 80 to 90 percent of residential high-rise buildings subject to Ordinance 19-4 to be able to obtain "acceptable" scores. The anticipated financial assistance from the City administration is not available to individual dwelling unit owners whose condominium/cooperative associations "opt-out" from the automatic fire sprinkler retrofit requirement and who must now determine for themselves how to pay for the alternative fire safety

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improvements approved by their high-rise condominium/cooperative associations and the other individual dwelling unit owners.

While the current CD2 version of Bill 37 (2021) does not fully address the recommendations proposed by PIG panelists (see Council Communication 49 (2022), dated February 17, 2022) and residential high-rise condominium/cooperative testifiers, the bill is intended to provide short-term extensions of the most urgent compliance deadlines while the City Council seeks assistance from the State Legislature in reviewing the impacts of new residential high-rise condominium/cooperative insurance, banking, and financing changes that affect the current viability of Ordinance 19-4.

Your Committee notes that the City Council has adopted several modifications to Ordinance 18-14 since the adoption of fire sprinkler retrofit legislation in 2018 to address concerns raised by community stakeholders during 2018-2022.

Legislation Adopted to Address Issues involved in Fire Safety Compliance

- **Ordinance 18-9** – Provides real property tax relief for eligible property owners after installation of an automatic sprinkler system within the high-rise residential building.
- **Ordinance 20-48** – Provides a one-year extension to various implementation deadlines within Ordinance 18-4 and 19-4.
- **Ordinance 21-3** – Amends certain requirements in Ordinance 19-4 by allowing individual unit owners to vote by written consent in lieu of a vote at a regularly scheduled special meeting, requires Licensed Design Professionals to submit a copy of the Life Safety Evaluation to the Honolulu Fire Department within five days of completion.
- **Ordinance 21-14** – Clarifies the due dates of deadlines specified in Ordinance 19-4 due to a technical error in Ordinance 21-3.

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- **Resolution – Council Communication 402 (2021)** (November 11, 2021) – Establishes a subcommittee of the PIT Committee as a Permitted Interaction Group to investigate matters relating to compliance with Fire Safety ordinances in residential high-rise buildings
- **PIT CR-1 (22)** (February 24, 2022) – Adopts the report and findings of the Subcommittee of the Committee on Public Infrastructure and Technology as a Permitted Interaction Group

HFD Acting Assistant Chief Reid Yoshida testified that HFD could not support the proposed CD2 amendments to Bill 37 (2021), CD1, that extend Ordinance 19-4 and Ordinance 21-4 deadlines by five years. However, Acting Assistant Chief Yoshida also acknowledged the lack of financial assistance currently available to assist condominium/cooperative associations and individual dwelling unit owners via the City's real property tax credit (pursuant to Ordinance 18-9). He stated that HFD welcomes continued dialogue with the PIT Committee in developing solutions to address LSE concerns expressed by condominium/cooperative association stakeholders, industry professionals, and PIT Committee members.

At your Committee's meeting on March 2, 2022, the Hawaii Council of Associations of Apartment Owners and one individual testified in support of the Bill.

Your Committee received written testimony in support of the Bill from Contessa AOAO and the Hawaii Council of Associations of Apartment Owners as well as testimony from community stakeholders. Testimonies are identified as M-695 (2020), M-736 (2020), M-836 (2020), M-874 (2020), M-837 (2020), M-875 (2020), M-146 (2021), M-170 (2021), M-213 (2021), M-546 (2021), M-563 (2021), M-582 (2021), M-52 (2022), M-76 (2022).

Your Committee considered a hand-carried CD2 version of the bill, identified as OCS 2022-0166/3/1/2022 4:28 PM, which makes the following amendments:

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A. In Section 13.3.2.26.2:

1. Changes the date by which a building life safety evaluation shall be conducted from "within four years from May 3, 2018" to "by December 31, 2022."

2. Changes "Buildings shall comply by passing the building fire and life safety evaluation within seven years from May 3, 2018" to "Buildings shall comply by receiving an acceptable score on the building fire and life safety evaluation within 12 years from May 3, 2018."

3. Changes "All buildings shall continue to maintain a passing status" to "All buildings shall continue to maintain an acceptable score."

B. In Section 13.3.2.26.2.3, changes "decide to opt out of the requirement within four years of the completion of the building fire and life safety evaluation" to "decide to opt out of the requirement within nine years of having received an acceptable score on the building fire and life safety evaluation."

C. In Section 13.3.2.26.2.6, changes the date for compliance with the requirement that a building must be protected by an approved automatic sprinkler system or alternative system from within 15 years of May 3, 2018, to within 20 years of May 3, 2018.

D. In Section 13.3.2.26.2.7, changes the date for compliance with the automatic fire sprinkler system or alternative fire prevention and fire safety systems provisions for common areas for all buildings from 15 years from May 3, 2018 to 20 years from May 3, 2018, and for an AHJ-approved extension of the date for compliance from 16 years from May 3, 2018 to 21 years from May 3, 2018.

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E. Replaces SECTION 3 of the bill with the following:

SECTION 3. Ordinance 19-4 is amended by amending Section 7 to read as follows:

"SECTION 7. The AHJ shall provide a report to the Council every three months for the first two years following the effective date of Bill 37 (2021), CD2. The report shall include the following: (a) information on the status of a building's Life Safety Evaluation ("LSE") scores in the six categories listed in Section 4: Mobility Status, Vertical Openings, Standpipe System – Class 1 Standpipe, Elevators – Emergency Power, Egress Routes – Compliant Stairwell Reentry, and Table 8; (b) a list of any buildings that are being added to the attachment to Ordinance 19-4 marked as Exhibit B and the criteria for the addition of the buildings; (c) a list of any buildings that are being removed from the attachment to Ordinance 19-4 marked as Exhibit B and the criteria for the removal of the buildings; (d) the number of appeals from AHJ determinations that the level of fire safety for a building is unacceptable; (e) the number of buildings that have submitted LSEs to the AHJ and the status of the buildings' progress in completing the LSE to achieve an "acceptable" score; (f) the number of Honolulu Fire Department ("HFD") outreach and training meetings conducted with design professionals and association of apartment owners representatives; (g) the number of HFD citations or inspections undertaken in relation to areas in which association of apartment owners organizations are not in compliance with the City's Fire Code; and (h) a list of buildings that have provided the AHJ with their building fire emergency plan that includes a listing and contact information of their frail and vulnerable residents who may require evacuation assistance in an emergency. Thereafter, the AHJ shall provide an annual report not less than 20 days from the end of the fiscal year on the progress of the implementation of Ordinance 18-14, which shall include the information listed above."

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F. Makes miscellaneous technical and nonsubstantive amendments

After discussion and consideration, your Committee prepared a CD2 version of the bill identified as OCS 2022-0174/3/7/2022 4:01 PM, which makes the following amendments:

A. In Section 13.3.2.26.2:

1. Changes all references to "a passing score" or "passing status" to "an acceptable score."

2. Changes the date by which a building life safety evaluation shall be conducted from "within four years from May 3, 2018" to "by no later than August 31, 2022."

3. Changes the building compliance timeframe from "seven years from May 3, 2018" to "12 years from May 3, 2018".

B. In Section 13.3.2.26.2.3, changes "decide to opt out of the requirement within four years of the completion of the building fire and life safety evaluation" to "decide to opt out of the requirement within nine years of having received an acceptable score on the building fire and life safety evaluation" and changes the reference to a "passing score" to "an acceptable score."

C. In Section 13.3.2.26.2.6, changes the date for compliance with the requirement that a building must be protected by an approved automatic sprinkler system or alternative system from within 15 years of May 3, 2018, to within 20 years of May 3, 2018.

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D. In Section 13.3.2.26.2.7, changes the date for compliance from 15 years from May 3, 2018 to 20 years from May 3, 2018, and for an AHJ-approved extension of the date for compliance from 16 years from May 3, 2018 to 21 years from May 3, 2018, and in the 2nd EXCEPTION, changes the reference to "passing status" to "an acceptable score."

E. Adds a new SECTION 3 that amends ROH Section 20-4.3(a) by changing the reference to "passing status" to "an acceptable score." Renumbers subsequent sections.

F. Replaces renumbered SECTION 4 of the bill with the following:

SECTION 4. Ordinance 19-4 is amended by amending Section 7 to read as follows:

"SECTION 7. The AHJ shall provide a report to the Council every three months for the first two years following the effective date of Bill 37 (2021), CD2. The report shall include the following: (a) information on the status of a building's Life Safety Evaluation ("LSE") scores in the six categories listed in Section 4: Mobility Status, Vertical Openings, Standpipe System – Class 1 Standpipe, Elevators – Emergency Power, Egress Routes – Compliant Stairwell Reentry, and Table 8; (b) a list of any buildings that are being added to the attachment to Ordinance 19-4 marked as Exhibit B and the criteria for the addition of the buildings; (c) a list of any buildings that are being removed from the attachment to Ordinance 19-4 marked as Exhibit B and the criteria for the removal of the buildings; (d) the number of appeals from AHJ determinations that the level of fire safety for a building is unacceptable; (e) the number of buildings that have submitted LSEs to the AHJ and the status of the buildings' progress in completing the LSE to achieve an "acceptable" score; (f) the number of Honolulu Fire Department ("HFD") outreach and training meetings

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owners representatives; (g) the number of HFD citations or inspections undertaken in relation to areas in which association of apartment owners organizations are not in compliance with the City's Fire Code; and (h) a list of buildings that have provided the AHJ with their building fire emergency plan that includes a listing and contact information of their frail and vulnerable residents who may require evacuation assistance in an emergency. Thereafter, the AHJ shall provide an annual report not less than 20 days from the end of the fiscal year on the progress of the implementation of Ordinance 18-14, which shall include the information listed above."

G. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee further finds that the recommendations and proposed amendments provided by condominium/co-operative management stakeholders and industry professionals could not be incorporated into Bill 37 (2021), CD1, in view of the bill's purpose as set forth in SECTION 1 of the bill, and the Office of Council Services recommends introduction of a new bill to incorporate their proposed changes.

Your Committee on Public infrastructure and Technology is in accord with the intent and purpose of Bill 37 (2021), CD1, as amended herein, and recommends that it pass Third Reading, in the form attached hereto as Bill 37 (2021), CD2. (Ayes: Fukunaga, Tsuneyoshi, Tupola* – 3; Noes: Elefante – 1.)

Respectfully submitted,

Carol Fukunaga

Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON _____ COMMITTEE REPORT NO. 44

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CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAI'I

ORDINANCE _____

BILL **37 (2021), CD2**

A BILL FOR AN ORDINANCE

RELATING TO FIRE SAFETY.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to update the Fire Code of the City and County of Honolulu.

SECTION 2. Section 20-1.1, Revised Ordinances of Honolulu 1990 ("Fire Code of the City and County of Honolulu"), as amended by Ordinance 21-3, Ordinance 21-14, and Ordinance 21-31, is amended by amending paragraph (18) to read as follows:

"(18) Amending Section 13.3.2.26.2. Section 13.3.2.26.2 is amended to read:

13.3.2.26.2 Compliance shall be with an automatic fire sprinkler system throughout the building or alternative fire prevention and fire safety systems in accordance with the requirements of a building fire and life safety evaluation as achieved by [~~a passing~~] receiving an acceptable score on a building fire and life safety evaluation pursuant to Ordinance 18-14. Existing high-rise residential buildings not protected throughout by an automatic fire sprinkler system shall be subject to building fire and life safety evaluations, which shall consist of an assessment of building safety features and fire protection systems in accordance with this code and the building code on a form prescribed by the AHJ in accordance with Section 20-4.4. Existing high-rise residential buildings that opt to install an automatic fire sprinkler system throughout the building shall not be required to undergo the building fire and life safety evaluation; provided all buildings continue to maintain [~~a passing status~~] an acceptable score on their respective building fire and life safety evaluation or maintain the codes and standards for automatic fire sprinkler systems that are current and applicable at the time the building permit application is submitted for approval. [~~A passing score~~] An acceptable score on the evaluation provides a minimum level of fire and life safety to fire fighters and occupants that is approved by the AHJ. A building fire and life safety evaluation shall be prepared by a licensed design professional or a building's authorized representative under the supervision of a licensed design professional, be stamped with the licensed design professional's authorized seal or stamp, and authenticated as provided under Hawaii Administrative Rules, Section 16-115-9. The licensed design professional shall provide the scores by each category of the building fire and life safety evaluation to the association of apartment owners of a

condominium or the cooperative housing corporation. A building fire and life safety evaluation shall be conducted [~~within four years from May 3, 2018,~~] by no later than August 31, 2022, and the licensed design professional shall submit a copy of the authenticated building fire and life safety evaluation to the AHJ in accordance with Section 20-4.3[~~.~~] , the aggregate score of which shall be published on the AHJ's website. Buildings shall comply by [~~passing~~] receiving an acceptable score on the building fire and life safety evaluation within [~~seven~~] 12 years from May 3, 2018, unless compliance is met with an automatic fire sprinkler system as indicated in Table 8 of the building fire and life safety evaluation form. The AHJ may grant an extension pursuant to Section 13.3.2.26.7 if automatic fire sprinkler systems are used to achieve compliance. All buildings must continue to maintain [~~a passing status~~] an acceptable score on their respective building fire and life safety evaluation assessments or maintain an automatic sprinkler system that complies with this chapter and the building code at the time of the evaluation. For the purposes of this section, "existing high-rise residential building" means the same as "existing [~~high-rise~~] highrise residential building" as defined in Section 20-5.1.

13.3.2.26.2.1 The association of apartment owners of a condominium or the cooperative housing corporation of an existing high-rise residential building may appeal the final building fire and life safety evaluation score, the resulting fire safety requirements for the building, as assessed by the licensed design professional, or the determination of the AHJ by filing a written request for an appeal to the director or the head of the AHJ within 45 days of the date of the completed building fire and life safety evaluation or the AHJ's determination of the building's fire and life safety requirements, whichever is later. The request for an appeal shall include a statement of the basis for appeal, supporting documentation, if any, and the relief requested. The director or head of the AHJ shall render a decision on the appeal no later than 30 calendar days from the receipt of the appeal. The AHJ shall submit an annual report to the City Council on the appeals filed for existing high-rise residential buildings and the disposition of the appeals.

13.3.2.26.2.2 Except as otherwise provided in this paragraph (18), which establishes the life safety evaluation system and authorizes owners of existing high-rise residential buildings to opt out of approved automatic sprinkler systems through a life safety evaluation process, existing high-rise residential buildings shall be protected throughout by an approved

automatic fire sprinkler system in accordance with this chapter and the building code. Existing high-rise residential buildings that opt to install an automatic fire sprinkler system throughout the building shall not be required to undergo a building fire and life safety evaluation, but shall be required to apply for and obtain a building permit through a State-licensed specialty contractor for the automatic fire sprinkler system [~~within three-years from the date of notifying the AHJ of its option~~] or [~~selecting~~] select the option on the building fire and life safety evaluation code assessment form, Table 8.

13.3.2.26.2.3 Notwithstanding any other provision of this paragraph (18), the association of apartment owners of a condominium or the cooperative housing corporation of an existing high-rise residential building 10 floors or higher may opt out of the automatic fire sprinkler system requirement; provided that, a majority of unit owners of a condominium or a majority of shareholders of a cooperative housing corporation decide to opt out of the requirement within [~~four~~] nine years of [~~the completion of~~] having received an acceptable score on the building fire and life safety evaluation, either by vote at a regularly scheduled or special meeting of the owners or shareholders, convened and noticed in accordance with the condominium's or cooperative housing corporation's by-laws, or by written consent in lieu of a vote at a regularly scheduled or special meeting; provided further, that the building receives [~~a passing~~] an acceptable score on the building fire and life safety evaluation through the implementation of alternative fire prevention and fire safety systems. An association of apartment owners of a condominium or a cooperative housing corporation that has opted out of the automatic fire sprinkler system requirement shall provide verifiable, public disclosure of its action to all current and future owners, shareholders, and residents. Verifiable public disclosure shall include [~~signs posted in the building's public notification areas~~] the posting of the aggregate score of the building fire and life safety evaluation on the AHJ's website and real estate sales disclosures as may be required by Hawaii real estate industry practices.

13.3.2.26.2.4 Each building owner shall, within 180 days from May 3, 2018, file a written statement of its intent to comply with this paragraph (18) with the AHJ for approval.

13.3.2.26.2.5 The AHJ shall review and respond to the written statement of the owner's intent to comply within 60 days of receipt of the statement of intent to comply.

13.3.2.26.2.6 Subject to the exceptions in Section 13.3.2.26.2.7, the entire building shall be required to be protected by:

a. An approved automatic fire sprinkler system; or

b. Alternative fire prevention and fire safety systems as approved by the AHJ

within [~~13~~] 20 years of May 3, 2018, except where an extension is approved by the AHJ as provided in Section 13.3.2.26.2.7.

13.3.2.26.2.7 Compliance with the automatic fire sprinkler system throughout the building or alternative fire prevention and fire safety systems provisions of Section 13.3.2.26.2.2 shall be achieved as follows: Common areas for all buildings [~~20 floors and over shall be completed within nine years from May 3, 2018, common areas for buildings 10 to 19 floors shall be completed within 11 years from May 3, 2018, and all buildings, regardless of the number of floors,~~] shall be completed within [~~13~~] 20 years from May 3, 2018. An extension to [~~16~~] 21 years from May 3, 2018, may be approved by the AHJ; provided that, compliance using an automatic fire sprinkler system in the common areas related to building egress path has been achieved.

EXCEPTION: Existing high-rise residential buildings are exempted from the automatic fire sprinkler system requirements in Section 13.3.2.26.2.2 if all dwelling units have exterior access and a continuous egress path to exit the building and have no full-length interior corridors.

EXCEPTION: Existing high-rise residential buildings less than ten floors in height can receive [~~a~~] an acceptable score on the building fire and life safety evaluation [~~passing status~~] in lieu of the approved automatic sprinkler system requirements in Section 13.3.2.26.2.2.

EXCEPTION: Existing high-rise residential buildings may be protected throughout by an approved automatic fire sprinkler system per NFPA 13R when approved by the AHJ.

EXCEPTION: Private balconies that have at least one long side that is 50 percent open are not required to have automatic fire sprinkler protection.

EXCEPTION: Elevator hoist ways and machine rooms are not required to have automatic fire sprinkler protection.

EXCEPTION: Class II wet standpipe systems may be removed when buildings are protected throughout by automatic fire sprinkler systems pursuant to Section 13.3.2.26.2.2.

EXCEPTION: Combined standpipe and automatic fire sprinkler systems using existing standpipes shall be permitted to utilize pump sizing for the fire sprinkler demand.

EXCEPTION: The time periods and deadlines for compliance set forth in [~~Sections~~] Section 13.3.2.26.2 and Section 13.3.2.26.2.7 shall be paused, tolled, or suspended where a building permit application, or other code application, for projects that relate to those sections or are required for the building to achieve compliance with the requirements of Section 13.3.2.26.2.2 for an automatic fire sprinkler system throughout the building or alternative fire prevention and fire safety systems, when the application is duly filed by a State-licensed specialty contractor for the design, installation, or upgrade of such system, and the review and issuance of the building permit or other code application has not been completed by the reviewing agency within 90 days of such submission to the reviewing agency. The period of time in excess of the 90-day period following timely filing of a complete application, but before issuance of the permit or approval of the application, shall constitute the period of time in which the time period and deadline are paused, tolled, or suspended. The reviewing agency shall process applications filed pursuant to Section 13.3.2.26.2 and Section 13.3.2.26.2.7 in a timely manner, provided that no penalties shall be imposed upon those buildings whose applications have not been processed by the reviewing agency before the deadlines to achieve compliance with the requirements set forth in Section 13.3.2.26.2 and Section 13.3.2.26.2.7 and were submitted to the reviewing agency at least 90 days prior to the respective deadline."

SECTION 3. Section 20-4.3, Revised Ordinances of Honolulu 1990 ("Compliance"), is amended by amending subsection (a) to read as follows:

"(a) A building fire and life safety evaluation code assessment shall be prepared by a licensed design professional or a building's authorized representative under the supervision of a licensed design professional using the building fire and life safety evaluation prescribed by the AHJ in accordance with Section 13.3.2.26.2;

provided that existing high-rise residential buildings that opt to install an automatic fire sprinkler system throughout the building shall not be required to undergo a building fire and life safety evaluation for initial compliance. The AHJ may grant an extension per Section 13.3.2.26.2.7 if automatic fire sprinkler systems in common areas are used to achieve compliance. All buildings that are required to undergo a building fire and life safety evaluation must continue to maintain [~~a passing status~~] an acceptable score on their respective building fire and life safety evaluation."

SECTION 4. Ordinance 19-4 is amended by amending Section 7 to read as follows:

"SECTION 7. The AHJ shall provide a report to the Council every three months for the first two years following the effective date of Bill 37 (2021), CD2. The report shall include the following: (a) information on the status of a building's Life Safety Evaluation ("LSE") scores in the six categories listed in Section 4: Mobility Status, Vertical Openings, Standpipe System – Class 1 Standpipe, Elevators – Emergency Power, Egress Routes – Compliant Stairwell Reentry, and Table 8; (b) a list of any buildings that are being added to the attachment to Ordinance 19-4 marked as Exhibit B and the criteria for the addition of the buildings; (c) a list of any buildings that are being removed from the attachment to Ordinance 19-4 marked as Exhibit B and the criteria for the removal of the buildings; (d) the number of appeals from AHJ determinations that the level of fire safety for a building is unacceptable; (e) the number of buildings that have submitted LSEs to the AHJ and the status of the buildings' progress in completing the LSE to achieve an "acceptable" score; (f) the number of Honolulu Fire Department ("HFD") outreach and training meetings conducted with design professionals and association of apartment owners representatives; (g) the number of HFD citations or inspections undertaken in relation to areas in which association of apartment owners organizations are not in compliance with the City's Fire Code; and (h) a list of buildings that have provided the AHJ with their building fire emergency plan that includes a listing and contact information of their frail and vulnerable residents who may require evacuation assistance in an emergency. Thereafter, the AHJ shall provide an annual report not less than 20 days from the end of the fiscal year on the progress of the implementation of Ordinance 18-14, which shall include the information listed above."

SECTION 5. In this ordinance, ordinance material to be repealed is bracketed and stricken, and new ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

A BILL FOR AN ORDINANCE

SECTION 6. This ordinance takes effect retroactive to the effective date of Ordinance 21-3.

INTRODUCED BY:

Carol Fukunaga

DATE OF INTRODUCTION:

September 2, 2021
Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu