SUMMARY OF PROPOSED COMMITTEE DRAFT:

BILL 43 (2022)
RELATING TO ADMINISTRATIVE ENFORCEMENT OF THE BUILDING, ELECTRICAL, PLUMBING, AND SIDEWALK CODES.

The **PROPOSED CD1** makes the following amendments:

A. Clarifies in proposed new ROH Section 18-7.4(e) that the three final orders incurred within a period of three years must relate to a detached one- or two-family dwelling, as those terms are used in Chapter 16.

B. Makes miscellaneous technical and nonsubstantive amendments.

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

ORDINANCE _____

BILL **43 (2022), CD1**
PROPOSED

A BILL FOR AN ORDINANCE

RELATING TO ADMINISTRATIVE ENFORCEMENT OF THE BUILDING, ELECTRICAL, PLUMBING, AND SIDEWALK CODES.

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

SECTION 1. Purpose. The purpose of this ordinance is to address the administrative enforcement of the building, electrical, plumbing, and sidewalk codes.

SECTION 2. Section 18-7.4, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"**Sec. 18-7.4 Administrative enforcement**.

In lieu of or in addition to enforcement pursuant to Section 18-7.3, if the building official determines that any person, firm, or corporation is not complying with a notice of violation, the building official may have the party responsible for the violation served, by mail or delivery, with an order pursuant to this section.

(a) Contents of the Order.

(1) The order may require the party responsible for the violation to do any or all of the following:

(A) Correct the violation within the time specified in the order;

(B) Except as provided in subsection (e)(2), [~~Pay~~] pay a civil fine not to exceed $2,000 in the manner, at the place, and before the date specified in the order; and

(C) Pay a civil fine not to exceed $2,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

(2) The order [~~shall~~] must advise the party responsible for the violation that the order [~~shall~~] will become final 30 calendar days after the date of its delivery. The order [~~shall~~] must also advise that the building official's action may be appealed to the building board of appeals.

(b) Service of Notice of Order. A notice of order must be served upon responsible persons either personally or by certified mail. However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the building

official in the exercise of reasonable diligence and the building official provides an affidavit to that effect, then a notice of order may be served by publishing the same once each week for two consecutive weeks in a daily or weekly publication in the city pursuant to HRS Section 1-28.5.

(c) Effect of Order—Right to Appeal. The provisions of the order issued by the building official under this section [~~shall~~] will become final 30 calendar days after the date of the delivery of the order. The party responsible for the violation may appeal the order to the building board of appeals as provided in Chapter 16. The appeal must be received in writing on or before the date on which the order becomes final. However, an appeal to the building board of appeals [~~shall~~] will not stay any provision of the order.

(d) Judicial Enforcement of Order. The building official may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the building official need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been paid.

(e) Three Orders Within a Three-Year Period. If a person incurs three final orders under this section within a period of three years relating to a detached one- or two-family dwelling, as those terms are used in Chapter 16, then:

(1) For a period of three years from the date the third order becomes final, the building official may not accept any application for a permit under this chapter from the person; and

(2) The civil fine for any subsequent violation by the person within three years of the preceding violation will be $10,000. The building official may not reduce or waive any portion of the civil fine issued pursuant to this subdivision.

A notice of order that has been appealed will be deemed final when it has been sustained upon appeal.

Any person who has incurred three final orders under this section within a three-year period may not circumvent the application of this subsection through the use of third persons, including employees and agents, and any third person knowingly aiding a person in the circumvention of this subsection shall be subject to the fine prescribed in subdivision (2)."

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SECTION 3. Ordinance material to be deleted is bracketed and stricken. New 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 bracketed and stricken material, or the underscoring.

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tommy Waters

DATE OF INTRODUCTION:

June 29, 2022
Honolulu, Hawaiʻi

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu