

A BILL FOR AN ORDINANCE TO AMEND SECTION 16-1.1, REVISED ORDINANCES OF HONOLULU, 1969, (BUILDING CODE) AS AMENDED, RELATING TO FIRE-EXTINGUISHING SYSTEMS.

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

SECTION 1. Section 16-1.1 of the Revised Ordinances of Honolulu, 1969 (Building Code), as amended, is hereby further amended as follows:

1. Item (104) thereof is hereby repealed.
2. By adding a new item (109A) to read:

"(109A) Adding Section 3808 to read:

'Section 3808. Maintenance, Inspection and Testing.

(a) General. All fire-extinguishing systems and devices, including but not limited to automatic sprinklers, combination standpipes, dry and wet standpipes, special automatic extinguishing systems, basement pipe inlets and the appurtenances thereto shall after approval pursuant to Section 3801 (b), be maintained in good working condition by the owner and inspected and tested periodically as specified hereunder. The Fire Chief shall have authority to enforce the provisions of this section.

(b) The building owner shall be responsible for conducting tests and inspections of systems or devices herein regulated, and the appurtenances thereto, at least once during each calendar year. Tests and inspections at shorter intervals may be required when an inspection by the Fire Chief indicates that there is a reason to believe that the system or device would fail to operate properly in an emergency.

(c) Procedures to be followed in accomplishing the tests and inspections required by paragraph (b) of this section shall be as promulgated by the Fire Chief in rules and regulations adopted pursuant to Chapter 91, Hawaii Revised Statutes, and Section 4-105, Revised Charter of the City and County of Honolulu, 1973, and shall have the force and effect of law.

(d) Tests and inspections shall be conducted by:

1. A person, partnership, joint venture, corporation, or any combination thereof, qualified and licensed under Chapter 444, Hawaii Revised Statutes, to perform the full testing procedure for the particular system or device being tested;
or

2. A person having a current valid certificate of fitness issued by the Fire Chief certifying such person as qualified to conduct such testing.

The Fire Chief shall make, amend, or repeal such rules and regulations as may be required to fully effectuate the provisions of this paragraph.

(e) The Fire Chief shall be notified at least one working day in advance of the performance of any required test or inspection. The purpose of this notification is to allow a representative of the Fire Department to witness the conducting of the test or inspection.

(f) At the conclusion of each test or inspection the Fire Chief shall be notified of any fire extinguishing system or device that was determined to be inoperable.

(g) When it is determined that the fire extinguishing system or device is operable the owner or his agents shall attach a tag, the form of which has been approved by the

Fire Chief, to the system or device. Such tag shall show the identity of the building, type of fire extinguishing system inspected or tested, date of inspection or test, name of inspector or tester, and such other information as shall be required by the Fire Chief. The tag shall be signed by a qualified person responsible for the inspecting and/or testing. Any person inspecting, testing, or servicing the fire extinguishing system or device shall make a written report to the Fire Chief.

(h) Whenever necessary to make an inspection to enforce any of the provisions of this section, the Fire Chief or his authorized representative may enter any building or upon any premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Chief by this section, upon presentation of proper credentials.

(i) In the event the owner of a building shall fail, neglect or refuse to comply with the provisions of this section or with a notice issued pursuant to this section by the Fire Chief or his authorized representative the Fire Chief may order the owner prosecuted as a violator of the provisions of this section pursuant to Section 205 of this Code."

SECTION 2. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Corporation Counsel need not include the brackets, the bracketed material or the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Daniel Clement Jr.

Councilmen

DATE OF INTRODUCTION:

APRIL 28, 1976

Honolulu, Hawaii

APPROVED AS TO FORM AND LEGALITY:

W. S. Heja
Deputy Corporation Counsel

APPROVED this 14th day of
June, 1976.

Frank F. Fasi
FRANK F. FASI, Mayor
City and County of Honolulu

RULES OF THE FIRE DEPARTMENT
CITY AND COUNTY OF HONOLULU
ON MATTERS RELATING TO TESTING OF FIRE EXTINGUISHING SYSTEMS

PART I

DEFINITIONS

Section 1.1. Definitions. Whenever used in these Rules:

- (1) "Agency" shall mean each state or county board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches.
- (2) "Building Code" shall mean the Building Code of the City and County of Honolulu as incorporated in Chapter 16 of the Revised Ordinance of Honolulu 1969, as amended.
- (3) "Fire Department" shall mean the Fire Department of the City and County of Honolulu.
- (4) "Fire Extinguishing System" shall include but is not limited to automatic sprinklers, combination standpipes, dry and wet standpipes, special automatic extinguishing systems, basement pipe inlets and the appurtenances and devices thereto, but shall not include portable fire extinguishers.
- (5) "Fire Official" shall mean the Fire Chief of the City and County of Honolulu or his authorized deputy.
- (6) "Mayor" shall mean the Mayor or Acting Mayor of the City and County of Honolulu.
- (7) "Party" shall mean each person named or admitted as a party in a hearing under these rules.
- (8) "Persons" includes individuals, partnerships, corporations, associations, or public or private organizations of any character.
- (9) "Rule" shall mean any statement of the Fire Official that describes procedure or practice requirements applicable in the administration and enforcement of the Building Code provision for periodic testing of fire sprinkler systems.

PART II

PERIODIC TESTING

Section 2.1. Fire Extinguishing Systems.

- (1) The building owner shall be responsible for conducting inspections and tests of fire extinguishing systems and devices regulated by the Building Code and the appurtenances thereto, at least once during each calendar year. Tests at shorter intervals may be required when an inspection by the Fire Official indicates that there is reason to believe that the system or device will fail to operate properly in an emergency.
 - (a) For a fire extinguishing system or device installed after the effective date of these rules, initial inspection and testing shall be accomplished at the time installation is completed.
 - (b) For a fire extinguishing system or device installed on or before the effective date of these rules, initial inspection and testing shall be accomplished within the calendar year of such effective date, if more than six (6) months remain during such year; otherwise, such initial testing and inspecting shall be accomplished in the next succeeding calendar year.
- (2) Inspections and tests required hereunder shall be performed in accordance with the procedures set forth in Exhibit A, attached hereto and incorporated herein by reference. Within ten (10) days of completion of the inspection and test, a copy of Exhibit A appropriately completed, will be mailed to the Fire Official. Sample copies of Exhibit A and B shall be available without fee or charge at the Office of the Fire Official.
- (3) Inspection and testing required hereunder shall be conducted by:
 - (a) A person, partnership, joint venture, corporation, or any combination thereof qualified or licensed under Chapter 444, Hawaii Revised Statutes, to perform the full testing procedure for the particular system or device being tested; or
 - (b) A person having a current valid certificate of fitness issued by the Fire Official certifying such person as qualified to conduct such inspection and testing.
- (4) The Fire Official shall be notified at least one working day in advance of the performance of any required inspection or test, and the Fire Official or his representative shall be permitted to observe part or all of the inspection or testing being conducted.
- (5) When it is determined that the fire extinguishing system or device is operable, the owner or his agents shall attach a tag, Exhibit B, the form of which has been approved by the Fire Official, to the system or device. Such tag shall show the identity of the building, type of fire extinguishing system inspected or tested, date of inspection or test, name of inspector or tester, and such other information as shall be required by the Fire Official. The tag shall be signed by a person responsible for inspecting, testing, or servicing the fire extinguishing system or device, who shall make a written report to the Fire Official.

PART III

PUBLIC INFORMATION AND INSPECTION

Section 3.1. Information. The public may obtain information on matters within the jurisdiction of the Fire Department relating to these rules by inquiring in person, during regular business hours at the office of the Fire Official, City Hall - Pawa'a Annex, 1455 S. Beretania Street, Room 305, Honolulu, Hawaii, or by submitting a written request to said office.

Section 3.2. Inspection of Rules. All rules of the Fire Official are available for public inspection during regular business hours at:

- (1) Office of the Fire Chief
City Hall - Pawa'a Annex
1455 S. Beretania Street
Room 305
Honolulu, Hawaii
- (2) Office of the City Clerk
City Hall
Honolulu, Hawaii
- (3) Office of the Lieutenant Governor
State of Hawaii
Honolulu, Hawaii

Section 3.3. Inspections of Opinions and Orders. All final opinions and orders of the Fire Official are available for public inspection at the office of the Fire Official during regular business hours.

Section 3.4. Copies of Rules. Copies of compilations of rules and supplements thereto are available to the public at a price fixed to cover mailing and publication costs.

PART IV

PETITION FOR ADOPTION, AMENDMENT OR REPEAL OF RULES

Section 4.1. Initiation by Petition.

- (1) Any interested person may petition the Fire Official for the adoption, amendment or repeal of any rule of the Fire Official.
- (2) The petition need not be in any special form but it shall contain the following:
 - (a) A statement of the nature of the petitioner's interest.
 - (b) A draft or the substance of the proposed rule or amendment or a designation of the provisions sought to be repealed.
 - (c) A statement of the reasons in support of the proposed rule, amendment or repeal.
 - (d) Any other information pertinent to the petition.
 - (e) The name, address and telephone number of each petitioner.
 - (f) The signature of each petitioner.
- (3) The petition shall be typewritten and submitted in triplicate to the Office of the Fire Official.
- (4) The Fire Official shall, within thirty days after the submission of the petition, deny the petition in writing, stating his reasons for such denial, or initiate proceedings in accordance with Section 91-3 of the Hawaii Revised Statutes, for the adoption, amendment or repeal of rules, as the case may be.
- (5) Any petition which does not conform to the requirements specified herein may be rejected.

Section 4.2. Initiation by Fire Official. The Fire Official may, at any time on his own initiative, initiate proceedings in accordance with the procedures provided herein, for the adoption, amendment or repeal of rules.

Section 4.3. Public Hearing.

- (1) Prior to the adoption, amendment or repeal of any rule, a public hearing shall be held by the Fire Official. At least 20 days notice shall be given, prior to the date of such hearing. Such notice shall include a statement of the substance of the proposed rules and of the date, time and place where interested persons may be heard thereon. The notice shall be mailed to all persons who have made a timely written request of the Fire Official for advance notice of his rulemaking proceedings and shall be published at least once in a newspaper of general circulation in the county.
- (2) All interested persons shall be afforded an opportunity to submit data, views, or arguments, orally or in writing. The Fire Official shall fully consider all written and oral submissions respecting the proposed rule. The Fire Official may make his decision at the public hearing or announce then the date as to when he intends to make his decision. Upon adoption, amendment, or repeal of a rule, the Fire Official shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against his determination.

Section 4.4. Filing. Certified copies of the rules adopted, amended or repealed by the Fire Official shall, upon approval by the Mayor, be filed forthwith with the City Clerk, and as may be otherwise required by

law for the filing of rules for Boards and Commissions.

Section 4.5. Effective Date.

- (1) The adoption, amendment, or repeal of any rule by the Fire Official shall become effective ten days after filing of the rule with the City Clerk; provided that, if a later effective date is required by statute or specified in the rule, such later date shall be the effective date. However, no rule shall specify an effective date in excess of thirty days after the filing of the rule as provided herein.
- (2) An emergency rule shall become effective upon filing with the City Clerk, for a period of not longer than one hundred twenty days without renewal unless extended in compliance with the provisions of Section 4.3 hereinabove if the Fire Official finds that immediate adoption of the rule is necessary because of imminent peril to the public health, safety or morale. The Fire Official's finding and brief statement of the reasons therefor shall be incorporated in the rule as filed. The Fire Official shall make an emergency rule known to persons who will be affected by it by publication at least once in a newspaper of general circulation within five days from the date of filing of the rule.

PART V

DECLARATORY RULINGS

Section 5.1. Petition. Any interested person may petition the Fire Official for a declaratory ruling as to the applicability of these rules or order of the Fire Official relating to these rules.

Section 5.2. Submission of Petition. The petition shall be submitted in triplicate to the Office of the Fire Official, City Hall - Pawa'a Annex, 1455 South Beretania Street, Room 305, Honolulu, Hawaii. The petition need not be in any special form, but it shall contain the following:

- (1) The name, address and telephone number of each petitioner.
- (2) A statement of the nature of each petitioner's interest, including reasons for the submission of the petition.
- (3) A designation of the specific provision, of these rules or order in question.
- (4) A complete statement of the relevant facts.
- (5) A statement of the position or contention of the petitioner.
- (6) A memorandum of authorities, containing a full discussion of the reasons, including legal authorities, in support of such position or contention.
- (7) The signature of each petitioner.

Section 5.3. Rejection of Petition. Any petition which does not conform to the foregoing requirements may be rejected by the Fire Official.

Section 5.4. Refusal to Issue Declaratory Ruling. The Fire Official may for good cause refuse to issue a declaratory ruling. Without limiting the generality of the foregoing, the Fire Official may so refuse when:

- (1) The question is speculative or merely hypothetical and does not involve existing fact, or facts which can reasonably be expected to occur in the near future.
- (2) The petitioner's interest is not of the type which would give him standing to maintain an action if he were to seek judicial relief.
- (3) The issuance of the declaratory ruling may adversely affect the interests of the City, its agencies, or any officer or employee in any litigation which is pending or may reasonably be expected to arise.
- (4) The matter is not within the jurisdiction of the Fire Official.

Section 5.5. Referral to Other Agencies. Where any question of law is involved, the Fire Official may refer the matter to the Corporation Counsel. The Fire Official may also obtain the assistance of other agencies, where necessary or desirable.

Section 5.6. Disposition of Petition. The Fire Official shall consider each petition submitted, and within a reasonable time after the submission thereof, either deny the petition in writing, stating his reason for such denial, or issue a declaratory order on the matters contained in the petition.

Section 5.7. Applicability of Order. An order disposing of a petition shall be applicable only to the fact situation alleged in the petition or as set forth in the order. It shall not be applicable to different fact situation or where additional facts not considered in the