



***This is a joint news release presented by the Florida Fire Sprinkler Association and the Florida Chapter of the American Fire Sprinkler Association, August, 2016.***

### **2016 Condominium Fire Sprinkler Retrofit in Florida**

False and misleading information about condominium fire sprinkler retrofit requirements is causing condominium owners and managers serious confusion. This news release serves to provide clarity to this complex issue.

**First and Foremost - There is no statutory fire sprinkler retrofit requirement for existing mid-rise or low-rise condominiums and therefore no need to vote to opt out. The Florida Fire Prevention Code requires high-rise buildings to retrofit fire sprinklers, or conduct an engineered life safety system, However, this code requirement does not apply to buildings under 75 feet - measured from the “lowest level of Fire Department vehicle access” to the floor level of the highest “occupiable story”.**

The substantive question is how do you exit a building in case of a fire? Fire department aerial apparatus cannot reach above 75 feet; the reason the 75-foot threshold was established decades ago. Fire departments have ladders to rescue those trapped in mid and low rise condominiums; the reason the fire sprinkler retrofit only applies to high-rise buildings.

### **Questions and Answers**

#### **Q. Where does the fire sprinkler retrofit requirement for high-rise buildings come from?**

*A. The high-rise fire sprinkler retrofit requirement was added to the National model codes, which are adopted in Florida, as a result of tragic high-rise fires including the MGM Grand Hotel fire (87 deaths) and the DuPont Plaza fire (97 deaths) in San Juan. It is important to remember, this requirement is an NFPA 101 Life Safety Code requirement – a National model code – therefore is not exclusive to Florida. Over the past 15 years, the Florida Legislature has extended the compliance deadline several times to allow condominium associations time to budget and implement. As of this writing, Florida Statute 718.112 gives associations an opt out deadline of December 31, 2016, and a fire sprinkler system install or the implementation of an Engineered Life Safety System by December 31, 2019.*

*The idea that FS 718.112 (Condominium Law) has full authority over this issue, is a misconception. While somewhat confusing, there are 4 important areas of law that work together to form the requirement;*

**1. FS 718.112 Condominiums – Bylaws.** *This law is widely believed to be the only applicable law. It is not. Its importance is based on the requirement to retrofit, the opting out language and when these events SHALL take place. Notice there is no mention of building height, i.e. high rise, mid-rise.*

*718.112 ...”By December 31, 2016, a residential condominium association that is not in compliance with the requirements for a fire sprinkler system and has not voted to*

*forego retrofitting of such a system must initiate an application for a building permit for the required installation with the local government having jurisdiction demonstrating that the association will become compliant by December 31, 2019.”*

**2. Section 633.202, Florida Statutes.** *This statute section directs the State Fire Marshal to adopt the Florida Fire Prevention Code by rule to protect public health and safety.*

**3. Florida Administrative Code 69A-3.012 Standards of the National Fire Protection Association and Other Standards Adopted (2016).** *This FAC Rule is where the Florida Fire Prevention Code and all other life/fire safety codes, get their authority from the Florida Legislature.*

*“(1) Except as specifically modified by statute or by the State Fire Marshal’s rules, the “Florida Fire Prevention Code, 5<sup>th</sup> Edition (2014),” which is comprised of the Florida specific edition of NFPA 101, the Life Safety Code (2012 edition) and the Florida specific edition of NFPA 1, the Fire Code (2012 edition), are hereby adopted and incorporated by reference ....”*

**4. Florida Fire Prevention Code, 5<sup>th</sup> Edition.** *These Sections clearly define the NFPA code requirement to retrofit, applicability ONLY to high rise buildings, timelines, and the definition of “high rise”.*

*NFPA 101 Section 31.3.5.11.1 – “All high-rise buildings, other than those meeting 31.3.5.11.2 or 31.3.5.11.3, shall be protected throughout by an approved, supervised automatic fire sprinkler system in accordance with 31.3.5.2. not later than December 31, 2019.”*

*NFPA 101 Section 31.3.5.11.2 – “An automatic fire sprinkler system shall not be required where every dwelling unit has exterior access in accordance with 7.5.3.”*

*NFPA 101 Section 31.5.11.3\* – “An automatic fire sprinkler system shall not be required in buildings having an approved engineered life safety system in accordance with 31.2.5.11.4.”*

*NFPA 101 Section 31.3.5.11.4 – “Where required by 31.3.5.11.3, an engineered life safety system shall be developed by a registered professional engineer experienced in fire and life safety system design, shall be approved by the authority having jurisdiction, and shall include any or all of the following:”*

- 1. Partial automatic fire sprinkler system*
- 2. Smoke detection system*
- 3. Smoke control system*
- 4. Compartmentation*
- 5. Other approved systems*

*NFPA 101 Section 3.3.36.7 Definitions – “High Rise Building – A building where the floor of an occupiable story is greater than 75 feet above the lowest level of fire department vehicle access.”*

**Q. Do mid- and low-rise condominium buildings need to opt out of the fire sprinkler requirement by December 31, 2016?**

*A. Absolutely not. No such requirement exists.*

**Q. Our condominium already has fire sprinklers in all units and common areas. How does this requirement affect us?**

*A. The requirement will not affect your building, and no more action is required. The requirement is for “retrofit” of non-sprinkled high rise buildings – NOT – “upgrading” your current and complete system.*

**Q. Our condominium has already retrofitted fire sprinklers in the common areas. Do we still have to opt-out of the retrofit of the living units?**

*A. Assuming your highest occupiable story is higher than 75 feet above the lowest level of fire department vehicle access, you have a choice. (Remember, if your building is less than 75 feet, no action is necessary.) The law includes an exception for a building that has an approved, engineered life safety system (ELSS). Fire sprinklers in common areas are a typical component of a full ELSS evaluation, which includes other fire and life safety factors. The decision to complete the fire sprinkler retrofit or the ELSS, or opt out of retrofitting, is typically based on cost.*

**Q. What options to fire sprinkler retrofit does a condominium have in the code?**

*A. The Life Safety Code provides the option “fire sprinkler retrofit or an engineered life safety system.” If the condominium association opts out of the fire sprinkler retrofit, they are **opting in** to the engineer fire safety system evaluation by a fire protection engineer. Simply opting out, without establishing a plan for an Engineered Life Safety System (ELSS), is not an option*

**Q. If we decide to do an ELSS will the local code official accept our plan?**

*A. The first step is to find a engineer that has technical expertise in fire protection engineering. Depending on the technical issues outlined in the evaluation, the local code official may ask that a third party engineer review the document*

**Q. Which costs more, the fire sprinkler retrofit or the engineered life safety system?**

*A. It depends on the building. The cost to retrofit a building with fire sprinklers depends upon many factors including the condition of the fire pump and the standpipe. According to a 2009 report and survey by the Florida Department of Business & Professional Regulation, actual costs for a complete retrofit including common areas ranged from \$1.05 to \$1.30 per square foot. In addition, buildings completely protected by fire sprinklers may qualify for discounts on their property insurance premiums. Finally, there is the potential liability and human cost involved should you choose not to retrofit, and the building suffers a fire incident.*



**Q. What are the penalties if one fails to opt out of the fire sprinkler retrofit requirement?**

*A. The high-rise condominium has until December 31, 2016 to decide if they wish to opt-out of fire sprinklers or do the engineer life safety system review. The high-rise retrofit requirement has been in place since 2000 and if the high-rise fails to opt out by December 31, 2016, the local fire department will require retrofit by December 31, 2019.*

**Q. If this requirement does apply to our high rise condominium, what do I need do now?**

*A. First, you should contact your fire protection service provider for confirmation and to discuss the many benefits of retrofitting fire sprinklers. Second, contact your Fire Official and attorney as to your options. It is imperative your condominium association realize and discuss the potential liability of “opting out”, should your building experience a fire death. Long term benefits of retrofitting are obvious.*

DISCLAIMER: This document is the product of a joint effort by the Florida Fire Sprinkler Association and the American Fire Sprinkler Association – Florida Chapter, with the sole intent of clarifying the complexities of the high rise condominium fire sprinkler retrofit law. While both associations are experts in fire sprinkler systems, they are not attorneys and therefore no attempt is made to offer legal advice, nor should anyone rely on the information contained herein as legal advice.