

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2017

COUNCIL BILL NO. CB17-xxxx  
COMMITTEE OF REFERENCE:  
[fill in]

**A BILL**

**For an ordinance establishing a temporary voluntary disclosure and compliance plan process for existing buildings that have undergone unpermitted work, and temporarily amending Section 142.2 of the administrative section of the Denver Building and Fire Code to allow occupancy of certain existing buildings prior to the issuance of a certificate of occupancy through a conditional certificate of occupancy.**

**WHEREAS**, the city has adopted the Denver Building and Fire Code (the “Code”) for the purpose of providing minimum standards to safeguard life, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use, occupancy, location, and maintenance of all building and structures within the City and County of Denver; and

**WHEREAS**, the city recently has become aware of existing buildings where unpermitted work has been completed and unpermitted occupancy is occurring; and

**WHEREAS**, the city desires to further the public health, safety, and welfare of residents of the City and County of Denver by encouraging building owners and tenants to bring their buildings into compliance with the Code; and

**WHEREAS**, the city, therefore, desires to have building owners promptly and voluntarily disclose any unpermitted work and to work with the city towards a path of compliance with the Code to protect the public health, safety, and welfare of residents of the City.

**NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** During the period July 21, 2017 through July 19, 2019, owners of existing buildings that have been modified without permits required by the Code (“Owner(s)”), or tenants of existing buildings that have been modified without permits required by the Code and have received an owner’s authorization (“Tenant(s)”), may voluntarily disclose the presence of unpermitted work to the city’s Community Planning and Development department or the Denver Fire Department and apply for a compliance plan designed to bring the building into compliance with the Code in a reasonable time. A compliance plan will allow the Owner or Tenant of such existing building time to come into compliance, which shall also include the obtaining of any necessary zoning permits, subject to the

1 completion of certain benchmarks in the compliance plan as agreed to and approved by the Building  
2 Official.

3 **Section 2.** The Building Official shall adopt a written policy governing the issuance and  
4 approval of voluntary compliance plans, which shall include a requirement for an initial inspection  
5 of the existing building and regular inspections during the period of the compliance plan. The  
6 Building Official shall deny any request for a compliance plan if the Owner or Tenant fails to submit  
7 required information in accordance with the timelines established in this written policy.

8 **Section 3.** The city shall not seek penalties against an Owner or Tenant for violations of the  
9 Code as allowed in Administrative Section 107.2 and 107.3 once the Owner or Tenant has been  
10 approved for a compliance plan and completes the compliance plan within the time allowed; however,  
11 the Building Official may seek any remedy allowed by the Code against the Owner or Tenant for  
12 unpermitted work upon revocation or expiration of a compliance plan as authorized in Section 7 below.

13 **Section 4.** To qualify for a compliance plan:

- 14 1. The Owner or Tenant must voluntarily disclose unpermitted work;
- 15 2. The land uses being conducted in the building must be allowed by the zoning code of the  
16 City and County of Denver;
- 17 3. The discovery of unpermitted work must not be the result of inspections conducted by the  
18 city or from information provided to the city from someone other than the Owner or Tenant;
- 19 4. The Owner or Tenant shall apply for a compliance plan and receive approval from the  
20 Building Official;
- 21 5. The Owner or Tenant shall complete all requirements under the compliance plan within  
22 two hundred seventy (270) days, or in a timeframe that may exceed two hundred seventy (270)  
23 days as specifically allowed by the Building Official in the compliance plan for unusual or unique  
24 circumstances. If an Owner or Tenant requires more than two hundred seventy (270) days to  
25 complete the compliance plan, the Owner or Tenant must notify the Building Official in writing before  
26 the two hundred seventy (270) day period has passed and receive approval from the Building Official  
27 for an extension of time; and
- 28 6. The Owner or Tenant shall not begin any unpermitted work after the effective date of this  
29 ordinance nor perform any additional unpermitted work during the term of the compliance plan.

30 **Section 5.** That Section 142.2 of the Administrative section of the Code is hereby amended,  
31 but only for the period of July 21, 2017 through July 19, 2019, inclusive, by enacting the following  
32 temporary exception to Section 142.2:

1 **Conditional Certificate of Occupancy.** In addition to the ability to apply for a compliance plan as  
2 explained above, during the period July 21, 2017, through July 19, 2019, Owners or Tenants of  
3 existing buildings that have been modified without permits required by the Code and that have  
4 resulted in unpermitted occupancy at the time of application for a compliance plan may apply for a  
5 Conditional Certificate of Occupancy that would allow occupancy of an existing building prior to the  
6 issuance of a new Certificate of Occupancy while the Owner or Tenant implements and completes  
7 the work required by the compliance plan. The Building Official shall only issue a Conditional  
8 Certificate of Occupancy if the occupancy of the existing building in the judgment of the Building  
9 Official and Fire Official based on physical inspection and evaluation of identified hazards does not  
10 pose a dangerous fire hazard or a dangerous hazard to life, health, property, or public welfare.

11 **Section 6.** That the following conditions apply to qualify for the Conditional Certificate of  
12 Occupancy:

13 1. A Conditional Certificate of Occupancy shall only be issued for structures or portions of  
14 such structures that will be administered by the 2015 International Residential Code or will be  
15 classified under any of the following building occupancy classifications according to Section 302 of  
16 the 2015 International Building Code:

- 17 a. Assembly Group A-3 with an occupant load of 300 or less;
- 18 b. Business Group B;
- 19 c. Mercantile Group M;
- 20 d. Residential Group R-2 and R-3 where the building is not greater than two  
21 stories or more than 16 dwelling units, or having a building occupant load greater than 20; or
- 22 e. Utility and Miscellaneous Group U;

23 2. The Owner or Tenant shall not begin any unpermitted work after the effective date of this  
24 ordinance nor complete any additional unpermitted work during the term of the conditional certificate  
25 of occupancy;

26 3. As authorized in Section 2 above and subject to the same conditions, the Owner or  
27 Tenant shall apply for a compliance plan and receive approval from the Building Official; and

28 4. A Conditional Certificate of Occupancy may only be issued for an existing building that is  
29 occupied as of the date of this ordinance.

30 **Section 7.** A Conditional Certificate of Occupancy will not be issued for a building or  
31 structure, or portion of a building or structure, where the continued use or existence of the building  
32 or structure, or portion of the building or structure constitutes a dangerous fire hazard or a dangerous

- 1 hazard to life, health, property, or public welfare as determined by the Building Official and/or Fire  
2 Official in their sole discretion; or if any of the following conditions are present:
- 3 1. Any building, structure, or portion thereof that meets the definition of 'Dangerous' as  
4 defined in the 2015 International Existing Building Code;
  - 5 2. Damage or deterioration to any exposed exterior member to the extent that the  
6 member provides inadequate protection from the elements to the occupants of the building or  
7 structure;
  - 8 3. Floors or areas with inadequate means of egress;
  - 9 4. Parts attached in such a manner that they may fall and cause injury to the  
10 occupants, public, or property;
  - 11 5. Building envelope damage or deterioration that has caused the interior of the  
12 structure to be open to the elements;
  - 13 6. Deterioration that has caused the plumbing system, electrical system or heating  
14 system to be no longer functional;
  - 15 7. Storage of explosives;
  - 16 8. Excessive amounts of combustible or flammable materials;
  - 17 9. Vegetation deemed an exposure hazard;
  - 18 10. Manufacturing of controlled substances;
  - 19 11. Storage of unstable or hazardous materials;
  - 20 12. Required fire protection systems are missing, or existing fire protection systems are  
21 inoperative;
  - 22 13. Any Gas-Fired, Oil-Fired or Solid Fuel-Fired Appliances, Devices, or Apparatuses,  
23 which have any of the following defects:
    - 24 a. Broken or cracked heat exchangers;
    - 25 b. Defective or deteriorated vents, venting or flues which permit leakage of flue  
26 products;
    - 27 c. Defective or improperly installed fuel supply piping;
    - 28 d. Insufficient air supply for the combustion of fuel;
    - 29 e. Equipment locations which constitute a fire or explosion hazard;
    - 30 f. A negative air pressure condition exists in a heating equipment room or area;  
31 or
    - 32 g. Warped or distorted combustion chambers or furnace boiler firing doors which  
33 permit leakage of combustion products;

1           14. Any electrical systems, appliances, devices, or apparatuses that have any of the  
2 following defects:

- 3           a. Bare wiring that is not part of a grounding electrode system;
- 4           b. Missing overcurrent protection;
- 5           c. Electrical systems exposed to the elements or other extreme conditions and  
6           not listed for such exposure; or
- 7           d. Missing equipment and system grounding

8           15. Any plumbing systems or devices that have any of the following defects:

- 9           a. Supply water not meeting the standards of potability as required by the  
10           Colorado State Department of Public Health; or
- 11           b. Water systems subjected to the hazards of backflow or back-siphonage,  
12           which might create pollution to the potable water supply; i.e., hose bibbs shall  
13           have anti-siphon devices.

14           16. Any violation of Article II, Chapter 27 of the Denver Revised Municipal Code  
15           (Housing Code).

16           **Section 8.** Failure to adhere to any conditions of the compliance plan or Conditional  
17 Certificate of Occupancy will result in the revocation of the compliance plan or Conditional Certificate  
18 of Occupancy and an immediate order to vacate any building or portion of a building subject to a  
19 compliance plan or Conditional Certificate of Occupancy. The Building Official and/or Fire Official  
20 is authorized to issue an order to vacate during the term of the compliance plan or Conditional  
21 Certificate of Occupancy if any inspections or information show that the existence or occupancy of  
22 the existing building poses a dangerous fire hazard or a dangerous hazard to life, health, property,  
23 or public welfare, regardless of any progress made under the compliance plan.

24           **Section 9.** Final discretion for approving a compliance plan or granting a Conditional  
25 Certificate of Occupancy is solely with the Building Official and the city is not liable nor shall there  
26 be any appeal to the Board of Appeals of the Building Official's decision to deny a request for a  
27 compliance plan or Conditional Certificate of Occupancy.

28           **Section 10.** An Owner or Tenant who completes work under a compliance plan or  
29 Conditional Certificate of Occupancy will be responsible for all permit and inspection fees, but will  
30 not be responsible for any additional fees required for unpermitted work.

1 COMMITTEE APPROVAL DATE: [fill in]  
2 MAYOR-COUNCIL DATE: [fill in]  
3 INITIATED BY \_\_\_\_\_  
4 PASSED BY THE COUNCIL: \_\_\_\_\_, 2017  
5 \_\_\_\_\_ - PRESIDENT

6 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2017  
7 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
8 EX-OFFICIO CLERK OF THE  
9 CITY AND COUNTY OF DENVER

10 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2017; \_\_\_\_\_, 2017  
11 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: [fill in], 2017  
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13 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
14 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
15 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to  
16 §3.2.6 of the Charter.

17 Kristin M. Bronson, Denver City Attorney

18 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2017  
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