

1 **BY AUTHORITY**

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

COUNCIL BILL NO. CB17-0726  
COMMITTEE OF REFERENCE:

4 Safety, Housing, Education & Homelessness

5 **A BILL**

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

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

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

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

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

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

26 **Section 1.** During the period July 21, 2017, through July 19, 2019, owners of existing  
27 buildings that have been modified without permits required by the Code (“Owner(s)”), or tenants of  
28 existing buildings that have been modified without permits required by the Code and have received an  
29 owner’s authorization (“Tenant(s)”), may voluntarily disclose the presence of unpermitted work to the  
30 city’s Community Planning and Development department or the Denver Fire Department and apply for  
31 a compliance plan designed to bring the building into compliance with the Code in a reasonable time.  
32 A compliance plan will allow the Owner or Tenant of such existing building time to come into  
33 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 (a) The Owner or Tenant must voluntarily disclose unpermitted work;

15 (b) The land uses being conducted in the building must be allowed by the zoning code of  
16 the City and County of Denver;

17 (c) The discovery of unpermitted work must not be the result of inspections conducted  
18 by the city or from information provided to the city from someone other than the Owner or Tenant;

19 (d) The Owner or Tenant shall apply for a compliance plan and receive approval from the  
20 Building Official;

21 (e) The Owner or Tenant shall complete all requirements under the compliance plan  
22 within two hundred seventy (270) days, or in a timeframe that may exceed two hundred seventy  
23 (270) days as specifically allowed by the Building Official in the compliance plan for unusual or  
24 unique circumstances. If an Owner or Tenant requires more than two hundred seventy (270) days  
25 to complete the compliance plan, the Owner or Tenant must notify the Building Official in writing  
26 before the two hundred seventy (270) day period has passed and receive approval from the Building  
27 Official for an extension of time; and

28 (f) 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 (a) A Conditional Certificate of Occupancy shall only be issued for structures or portions  
14 of 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 (1) Assembly Group A-3 with an occupant load of 300 or less;
- 18 (2) Business Group B;
- 19 (3) Mercantile Group M;
- 20 (4) Residential Group R-2 and R-3 where the building is not greater than two  
21 stories or more than 16 dwelling units, or not having a building occupant  
22 load greater than 20; or
- 23 (5) Utility and Miscellaneous Group U;

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

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

29 (d) A Conditional Certificate of Occupancy may only be issued for an existing building that  
30 is occupied as of the date of this ordinance.

31 **Section 7.** A Conditional Certificate of Occupancy will not be issued for a building or  
32 structure, or portion of a building or structure, where the continued use or existence of the building  
33 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 (a) Any building, structure, or portion thereof that meets the definition of 'Dangerous' as  
4 defined in the 2015 International Existing Building Code;

5 (b) 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 (c) Floors or areas with inadequate means of egress;

9 (d) Parts attached in such a manner that they may fall and cause injury to the occupants,  
10 public, or property;

11 (e) Building envelope damage or deterioration that has caused the interior of the structure  
12 to be open to the elements;

13 (f) Deterioration that has caused the plumbing system, electrical system or heating  
14 system to be no longer functional;

15 (g) Storage of explosives;

16 (h) Excessive amounts of combustible or flammable materials;

17 (i) Vegetation deemed an exposure hazard;

18 (j) Manufacturing of controlled substances;

19 (k) Storage of unstable or hazardous materials;

20 (l) Required fire protection systems are missing, or existing fire protection systems are  
21 inoperative;

22 (m) Any Gas-Fired, Oil-Fired or Solid Fuel-Fired Appliances, Devices, or Apparatuses,  
23 which have any of the following defects:

24 (1) Broken or cracked heat exchangers;

25 (2) Defective or deteriorated vents, venting or flues which permit leakage of  
26 flue products;

27 (3) Defective or improperly installed fuel supply piping;

28 (4) Insufficient air supply for the combustion of fuel;

29 (5) Equipment locations which constitute a fire or explosion hazard;

30 (6) A negative air pressure condition exists in a heating equipment room or  
31 area; or

32 (7) Warped or distorted combustion chambers or furnace boiler firing doors  
33 which permit leakage of combustion products;

1 (n) Any electrical systems, appliances, devices, or apparatuses that have any of the  
2 following defects:

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

8 (o) Any plumbing systems or devices that have any of the following defects:

- 9 (1) Supply water not meeting the standards of potability as required by the  
10 Colorado State Department of Public Health; or
- 11 (2) 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  
13 shall have anti-siphon devices.

14 (p) Any violation of Article II, Chapter 27 of the Denver Revised Municipal Code (Housing  
15 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: June 28, 2017

2 MAYOR-COUNCIL DATE: July 4, 2017 by Consent

3 PASSED BY THE COUNCIL: \_\_\_\_\_

4 \_\_\_\_\_ - PRESIDENT

5 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_

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

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_; \_\_\_\_\_

10 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: July 6, 2017

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12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
13 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to  
15 §3.2.6 of the Charter.

16 Kristin M. Bronson, Denver City Attorney

17 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_