



Denver's Safe Occupancy Program & *Safe Creative Space Fund* Guidelines

Section I: Safe Occupancy Program

What is the Safe Occupancy Program?

Denver Community Planning and Development (CPD) and the Denver Fire Department (DFD) have launched a new, conditional building occupancy program for spaces that are currently operating without permits. This is an incentive-driven program designed to improve the safety of buildings in the City of Denver for their occupants, visitors, neighbors, and general public.

What is "conditional building occupancy"?

Enrolling in the Safe Occupancy Program means you could be eligible for a *conditional certificate of occupancy*, which legally allows people to continue occupying their space, provided there are no life-safety hazards. Occupancy is conditional based on progress under a compliance plan--the creation of which is one of the first steps in the program.

Each compliance plan is tailored to the unique tenant space or building in question. The plan will include a description of the unpermitted construction, steps for ensuring the construction complies with local codes, and a schedule for obtaining permits if necessary. This will mean engaging an architect or engineer to assist with code improvements [or "on the project."}. CPD and DFD will work collaboratively with applicants as they create their compliance plan in order to identify reasonable, potentially more affordable ways to meet building and fire codes. Once a plan is created and approved, work will progress according to the schedule outlined in the plan. During this time, the conditional certificate of occupancy will ensure you can continue to live in, work in, or rent the space.

What are the incentives in this program?

With this program, Denver became the first city in the country with a law explicitly granting legal occupancy of unpermitted spaces while a building is being brought up to code voluntarily. Any identified life safety hazards must be addressed first/immediately.

While first and foremost ensuring public safety, the program offers three key benefits to users:

- Allows people to remain in place
- Offers an extended deadline for compliance
- Encourages collaboration for creative and potentially cheaper solutions

Why does Denver need a program like this?

Denver's high-priced real estate has driven local artists and others to find affordable, functional space in older buildings. In some cases, as part of repurposing these buildings, work has been completed without permits and not up to the standards of international building and fire codes, putting occupants and the public at risk of fire and other hazards.

The Safe Occupancy Program was designed with creative spaces in mind but is applicable to many other uses of existing buildings. It allows building improvements to progress at a pace that makes sense for the property owner and the city, increasing the affordability of the project by distributing construction costs over a longer time. City code officials will work with building owners, tenants and contractors to potentially identify reasonable and more affordable ways to meet the intent of building and fire codes.

Who can apply?

Through January 17, 2020, the owner or tenant of an **existing unpermitted** space may apply for the program. In addition, through March 2, 2018, any buildings vacated since December 2016 are also retroactively eligible, as are any buildings inspected in response to complaints/tips.

After March 2, 2018, the only way to enter the Safe Occupancy Program is to come forward voluntarily. Spaces inspected in response to complaints or tips will no longer be eligible after that date.

Tenants enrolling in the Safe Occupancy Program will need to provide a letter from the building owner authorizing participation in the process by the time the compliance plan is submitted.

Eligible Buildings or Tenant Spaces include:

- *Businesses/Sales*
Many existing businesses can take advantage of this program. For a complete list of the businesses that qualify, consult [Sections 304 "Business](#)

[Group B" and 309 "Mercantile Group M"](#) of the International Building Code (IBC).

- *Residential*
Single-family homes and duplexes are eligible. Many other types of residential dwellings are also eligible, provided they are two stories or less, have fewer than 16 dwelling units, have an occupant load of 20 people or less, and are listed in [Sections 310.4 or 310.5 "Residential Group R-2" and "Residential Group R-3"](#) of the IBC.
- *Assembly*
Assembly spaces cannot have a maximum occupancy load greater than 300 people. Eligible spaces include performance space (live music, poetry readings, dances etc.), art galleries, arcades, libraries and museums, indoor sports/gyms (without spectator seating), lecture halls, exhibition halls, community halls, and places of worship. A longer list of allowed assembly spaces, holding 300 people or less, is located in [Section 303.4 "Assembly Group A-3"](#) of the IBC.
- *Live/work* spaces qualify if they meet the rest of these criteria outlined above.
Developing a live/work space is an ideal permit path for Denver's artists and makers who look to reuse an existing building for a creative, new purpose. In many locations throughout the city, Denver's codes enable a combination of residential living and commercial activity in the same unit. These same codes ensure public health, safety and quality-of-life for building occupants, visitors and the general public, and reduce liability for property owners and commercial tenants.

For questions or help understanding a section of the code, you can [contact us via phone, email or in person](#) during business hours or request a pre-application meeting with our staff.

Not Eligible

- Places that serve food and drink (like restaurants, bars, banquet halls, and theaters)
- Buildings that may pose a higher risk or have a higher occupancy load, like hospitals, schools, event centers, hotels, and manufacturing/processing activities
- Any creative spaces that are new or still in the development phase

What is the process to get into the Safe Occupancy Program?

- For more specific answers about if, and how, the Safe Occupancy Program applies to you, contact any of the following:
 - Jill Jennings Golich, CPD Deputy Director at 720.865.2909 or email at jill.jenningsgolich@denvergov.org
 - Executive Director, RedLine, Louise Martorano 303.296.4448 ext. 301 or email at louise.martorano@redlineart.org
 - Lisa Gedgaudas, Denver Arts & Venues, 720-865-5560 or email at lisa.gedgaudas@denvergov.org

If you chose to move forward in the program, the City will schedule a site visit with a team of inspectors and code officials, who will inspect the space to assess its safety. It will not require the owner to correct violations right away unless there is a serious life-safety concern.

- Get an estimate for costs & timeline [Request recommended vendors/contractor list from RedLine]
- The owner or tenant will work with city code officials to create a plan and set extended timelines for making sure their space is up to code. This would involve the applicant hiring a licensed professional to address the specific concern (architect, engineer, specialized contractor, etc). Through this process, the owner or tenant will get an estimate of costs for the work if requested to be provided by the design professional and/or contractor, and the compliance plan must outline when the various work will be completed.
- Meet with CPD representatives, service provider, RedLine, A&V to help create a compliance plan
- CPD approves Compliance Plan. During this period, an owner or tenant may apply for a conditional certificate of occupancy to continue to use the building. City officials will grant this allowance after verifying that no serious life safety hazards exist and the compliance plan to bring the building up to code has been approved.
- Secure a contractor, and submit for building permits to do the work as outlined in the compliance plan.

What is the timeline?

After enrolling in the program, you will have 60 days to complete a compliance plan. Any work or permits required under the plan must be completed within a year of starting the program. If your project requires more time than that, notify the building official in writing 30 days in advance of your deadline for an extension, making sure to include a reason and a new anticipated completion date in your request.

What does my building need to meet code?

Every building and space is unique, and it would be virtually impossible for one checklist to apply unilaterally to every existing unpermitted space. However,

while we can't design your space for you, we are committed to being a partner in finding innovative and more affordable solutions.

For more details on this, you can download the [building code policy](#) (Download PDF) on submitting a compliance plan and receiving a conditional certificate of occupancy.

Section II: Safe Creative Space Fund

What is the Safe Creative Space Fund?

Denver Arts & Venues (A&V) is committed to exploring short- and long-term opportunities for safe, creative spaces that support creative production, artistic growth, and better protect artists as critical contributors to our city. As an additional tool to the Safe Occupancy Program, Denver Arts & Venues is providing \$300,000 over the 3-year term of the Safe Occupancy Program for building and tenant safety improvements. This works out to up to \$100,000.00 per year and up to \$50,000.00 per project in soft and hard costs.

Who administers the fund?

A&V has partnered with RedLine to administer the funds and facilitate support between artists and arts businesses with existing creative spaces that would qualify for the Safe Occupancy Fund.

When is the funding available?

- December 12, 2017 - January 17, 2020

Who can apply for the funds?

A tenant or landowner that qualifies for the Safe Occupancy Program and own or run a creative space in the City and County of Denver. Creative spaces can include:

- Creative Assembly space
- Creative Live/work collectives
- Creative businesses

What are the funding qualifications?

Funds will be distributed on a first come, first serve basis and competitively awarded based on requirements including:

- Tenants with a 2-year minimum lease term
- Funding assistance may not exceed \$50,000 per building/space
- Fund will support the reimbursable construction/tenant improvements costs
- Fund requires a % match of the total project cost by the tenant or property owner
- Final assessment of funding support will be determined on a case-by-case basis

- In the event a funded project fails to produce or fulfill contractual obligations, penalties may include:
 - Termination of the funding
 - Repayment of previously received funds

Funding preference will be given to:

- Applicants that can demonstrate a track record of working with the creative community or offering creative programs or businesses and organizations
- Tenants or owners that can demonstrate an immediate and critical need for assistance
- Tenants that can provide a long-term lease (over 2-years)
- Owners or tenants providing supplemental funds (match or more) to the Safe Creative Space Fund
- Spaces or buildings that support multiple creative businesses or creative activities

What is the process to receive funding and support?

- To apply for eligibility of the fund, RedLine will require that the tenant or owner fill out the Safe Creative Space Fund application and provide the existing, fully -executed lease and terms to review eligibility for the funding and program
- For more specific answers about if, and how the Safe Creative Space Fund applies to you, contact Libby Barbee, RedLine's Program Manager at lbarbee@redlineart.org or call 303-296-4448

Funding can support the following steps:

- RedLine can provide you with a commercial inspector or City code official that can inspect your space to assess its safety and any code compliance needs, and provide an estimate for costs & timeline
- The owner or tenant may then proceed to work with Community Planning and Development (CPD) and the Safe Occupancy Program to create a compliance plan and set extended timelines. This would involve the applicant hiring an architect or other licensed professional.
- CPD approves Compliance Plan, during this process, an owner or tenant may apply for a conditional certificate of occupancy and additional funding support through the Safe Creative Spaces Fund for improvements.
- Contractor secured and work begins

How is funding processed?

- RedLine will create a MOU (Memorandum of Understanding) between the property owner and/or tenant to detail the amount of funding, timeline, and intended outcome for the project and funds.
- After the MOU is signed and distributed, funds will be disbursed on a reimbursement basis:
 - Vendors Invoice: RedLine, 2350 Arapahoe Street, Denver, CO 80205

- Payments are processed on the 1st and 15th of each month

Additional resources for creative spaces will include:

- Toolkit
- City Permitting & Compliance Staff Contacts Guide
- Approved vendor list of service providers (architects, structural engineers, electricians, etc.)
- River North Art District, Safe Creative Spaces Fund - additional funding and support may be available if your space is located within the River North Art District/Business Improvement District boundaries; to find out call The RiNo Arts District at 303.345.8285.

Other things to know before you start

Zoning

Zoning permits are required if a change of use under the zoning code has occurred (e.g., changing from a warehouse or church to a commercial or residential use), or if construction work modifies the building's exterior. A conditional certificate of occupancy cannot be issued until all required zoning permit applications have been submitted for review and are found to be complete by staff according to the [zoning code](#) for the City & County of Denver.

Hiring a professional

Creating a compliance plan or verifying that installed work meets code will almost always require that you hire a professional -- an architect, engineer, or licensed contractor. Through this process, you and the city will work together to identify an appropriate path to meet code. Accordingly, your architect or engineer who is responsible for preparing your compliance plan and permit submittals will need to attend all meetings with you and the city.

Permit fees

Any work to be completed under a compliance plan will incur [standard permit fees](#); however, any additional fees typically applied to unpermitted work will be waived.

Transferability

The compliance plan and conditional certificate of occupancy can be transferred to a new owner or tenant during the program.

Eviction Assistance

In the chance that you may experience eviction, for any reason, in the time that you are looking to bring your residence into compliance, the city has resources available. The City has taken steps to support renters experiencing or at-risk of eviction by providing the following assistance: 1) temporary rental and utility assistance for renters experiencing a crisis; 2) a comprehensive tenant rights guidebook aimed at educating residents

experiencing or at risk of an eviction about their rights under Colorado law; and 3) distribution of eviction assistance and resource information to residents facing an eviction through outreach workers in eviction court.