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Councilmember Charles Allen

Chairman Phil Mendelson

Councilmember Anita D. Bonds

Councilmember David Grosso

Councilmember Brianne K. Nadeau

Councilmember Kenyan McDuffie

Councilmember Elissa Silverman

Councilmember Robert C. White, Jr.

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish the Department of Buildings as a subordinate agency within the Executive branch with oversight of construction compliance, rental housing safety, and residential property maintenance activities in the District, to enumerate the functions of the Department, to provide for a Director to head the Department, to provide for a Chief Building Official, to provide for a Strategic Enforcement Administrator, to proscribe for the organization of the Department, to require an implementation and transition plan for the establishment of the Department, to provide a timeline wherein the Executive is required to plan and implement establishment of the Department, to require a Strategic Enforcement Plan and proscribe the content of that Plan, to require an annual Enforcement Report and proscribe the content of that report, to provide for rulemaking authority, to amend existing law to conform to the establishment of the Department of Buildings, and to redesignate the

46 Department of Consumer and Regulatory Affairs as the Department of Licensing and
47 Consumer Protection.

48
49 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
50 act may be cited as the “Department of Buildings Establishment Act of 2018”.

51 **TITLE I. ESTABLISHMENT OF THE DEPARTMENT OF BUILDINGS**

52 Sec. 101. Definitions.

53 For the purposes of this act, the term:

54 (1) “Chief Building Official” or “CBO” means the lead administrator of the
55 Office of Construction and Building Standards, established by section 104.

56 (2) “Department” means the Department of Buildings established by section 102.

57 (3) “International Code Council Family of Codes” means the body of standards
58 promulgated by the International Code Council to the extent the standards are adopted by the
59 District of Columbia and codified into the District of Columbia Code of Municipal Regulations.

60 (4) “Strategic Enforcement Administrator” or “SEA” means the lead
61 administrator of the Office of Strategic Code Enforcement established by section 105.

62 Sec. 102. Establishment of the Department of Buildings.

63 (a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved
64 December 24, 1973 (87 Stat. 787; D.C. Official Code §1-204.04(b)), there is established, as a
65 subordinate agency within the executive branch of the District government, the Department of
66 Buildings, which shall be headed by a Director who shall carry out the functions and authorities
67 assigned to the Department.

68 (b) The Department is charged with promoting the health, safety, and quality of life of
69 residents and visitors in the District of Columbia by reviewing proposed plans for technical
70 sufficiency, issuing permits to ensure competent construction, inspecting the built environment,

71 regulating land use and development, and enforcing the regulations and codes governing
72 building construction, rental housing conditions, building maintenance, and building safety.

73 (c) The functions of the Department shall be to:

74 (1) Ensure that the physical environment and structure of all buildings in the
75 District of Columbia meet all applicable regulations and codes for preservation or the use to
76 which the space or structure is to be put;

77 (2) Ensure that the habitability and sanitary condition of all rental housing units in
78 the District of Columbia meet all applicable regulations and codes, except those that are under
79 the exclusive jurisdiction of the United States; and

80 (3) Ensure that public and private land and structures meet adequate health,
81 safety, and environmental standards.

82 Sec. 103. Director.

83 (a) The Director shall manage and administer the Department and all functions and
84 personnel assigned thereto, including the power to redelegate to other employees and officials of
85 the Department such powers and authority as in the judgment of the Director is warranted in the
86 interests of efficiency and sound administration, excluding the ability to alter the duties and
87 functions of the Chief Building Official established by section 104 of this act or the duties and
88 functions of the Strategic Enforcement Administrator established by section 105 of this act.

89 (b) The Director shall be appointed by the Mayor with the advice and consent of the
90 Council, pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C.
91 Law 2-142; D.C. Official Code § 1-523.01(a)).

92 Sec. 104. Chief Building Official.

93 (a) There is established a Chief Building Official with primary authority for the
94 administration of and determination of compliance with the District of Columbia Building Codes
95 (D.C. Law 6-216; 12 DCMR § A), Construction Codes (D.C. Law 6-216; 12 DCMR § K), the
96 Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-
97 1451.01 – 6-1451.11), and Zoning Codes (D.C. Law 6-216; 11 DCMR § X), and the
98 management of all District of Columbia land records.

99 (b) The Chief Building Official shall be appointed by the Mayor with the advice and
100 consent of the Council, pursuant to section 2(a) of the Confirmation Act of 1978, effective
101 March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

102 (c) On the effective date of this act; the incumbent CBO shall continue to serve as the
103 CBO until the expiry of a five-year term to be calculated from the effective date of this act. If the
104 incumbent CBO is unable to serve as CBO, the next highest-ranking, employee of the Office of
105 Construction and Building Standards shall serve as acting CBO until a new CBO is appointed by
106 the Mayor pursuant to the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142;
107 D.C. Official Code § 1-523.01).

108 (d) The CBO shall have not less than eight years of senior-level experience in
109 administering building standards and shall have demonstrated, through knowledge and
110 experience, the ability to administer a building standard system of the size and complexity of the
111 responsibilities covered by this act.

112 (e) The CBO shall serve for one five-year term and may be reappointed pursuant to
113 subsection (b) of this section.

114 (f) The CBO shall not be removed from office before the expiration of the five-year term
115 except for cause and shall not be required to resign at the end of a mayoral term or

116 administration, subject to the right of appeal as provided in Title VI of the District of Columbia
117 Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-
118 139; D.C. Official Code § 1-606.01 et seq.).

119 Sec. 105. Strategic Enforcement Administrator.

120 (a) There is established, subordinate to the Director, a Strategic Enforcement
121 Administrator within the Department of Buildings.

122 (b) The SEA shall have the following responsibilities:

123 (1) Responsibility for developing and implementing strategic, and data-driven
124 deployment of the Department's enforcement efforts and advising the Chief Building Official
125 (CBO) and Chief Inspection Official (CIO) accordingly;

126 (2) Monitoring violations to ensure that the CBO and CIO are scheduling timely
127 reinspections and that the appropriate documentation and data is being captured;

128 (3) If, and when, fines are levied the Office of Strategic Code Enforcement is
129 responsible for tracking and enforcing collection of the fines and making referrals to OAG, when
130 necessary;

131 (4) Developing and implementing consistent enforcement procedures and
132 standards in coordination with the CBO and CIO;

133 Advisory responsibility for managing the assignment of the Department's
134 enforcement staff to ensure enforcement efforts regarding the built environment of the District of
135 Columbia are effectively assigned;

136 (5) Managing and tracking the enforcement history of individual projects,
137 professionals, and properties to identify repeat violators or trends in construction, housing code,
138 or maintenance violations and developing plans to detect and deter future violations;

139 (6) Monitoring and tracking the number, type, and severity of violations,
140 abatement history, impact on neighboring properties, previous enforcement actions taken, and
141 the results of such enforcement actions to inform a consistent application of abatement standards;
142 and

143 (7) General administration of the Department's enforcement efforts.

144 (c) The Strategic Enforcement Administrator shall be appointed by the Mayor with the
145 advice and consent of the Council, pursuant to section 2(a) of the Confirmation Act of 1978,
146 effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

147 (d) The SEA shall serve for one five-year term and may be reappointed pursuant to
148 subsection (c) of this section.

149 (e) The SEA shall not be removed from office before the expiration of the five-year term
150 except for cause and shall not be required to resign at the end of a mayoral term or
151 administration, subject to the right of appeal as provided in Title VI of the District of Columbia
152 Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-
153 139; D.C. Official Code § 1-606.01 et seq.).

154 Sec. 106. Department organization.

155 (a) There are established within the Department the following offices and divisions:

156 (1) The Office of the Director with subordinate staff responsible for:

157 (A) Human Resources;

158 (B) Intergovernmental Affairs;

159 (C) the General Counsel;

160 (D) Communications; and

161 (E) Technology and Information Services, including the development and
162 maintenance of, in coordination with the Office of the Chief Technology Officer,
163 the systems necessary to enable the efficient and accurate maintenance of digital
164 records management, electronic plan submission, electronic plan review, permit
165 issuance, and enforcement records.

166 (2) Administrative Services, with subordinate staff responsible for:

167 (A) Customer Service and Complaint Resolution;

168 (B) Logistics and Fleet Services, including the management of the
169 equipment necessary to support an inspection workforce that deploys to inspect construction sites
170 in coordination with Technology and Information Services;

171 (C) Risk Management; and

172 (D) Contracts and Procurement;

173 (3) The Office of Construction and Building Standards, headed by the Chief
174 Building Official established by section 104 of this act, with subordinate staff responsible for:

175 (A) The Permitting Operations Division, which shall:

176 (i) Accept permit applications for review and coordinate the review
177 of such applications by the relevant offices and entities;

178 (ii) Evaluate submitted plans and certify their compliance with
179 current building and construction codes or provide instructions to obtain compliance for non-
180 compliant submissions;

181 (iii) Issue building permits for private and District construction
182 projects;

183 (B) The Construction Compliance Division, which shall manage and
184 coordinate revisions to the District’s building and trade codes to meet current demands for
185 adequate and safe construction and the maintenance of new and existing building structures as
186 outlined by the International Code Council Family of Codes;

187 (C) The Building Inspection Division, which shall:

188 (i) Inspect commercial buildings;

189 (ii) Manage permit-related inspection requests;

190 (iii) Issue citations for violations of the District’s

191 Building Codes and District’s Zoning Regulations to correct violations; and

192 (iv) Conduct building and structure assessments for

193 emergency and disaster response in coordination with the Homeland Security and Emergency

194 Management Agency;

195 (D) Green Building Division, which shall regulate construction relevant to

196 the green codes which includes the Green Building Act of 2006, effective March 8, 2007 (D.C.

197 Law 16-234; D.C. Official Code § 6-1451.01 – 6-1451.11), the Green Construction Code (12

198 DCMR § K), and the Energy Conservation Code (12 DCMR § I). The Division shall coordinate

199 services with the Permitting Operations Division and Construction Compliance Division, such

200 as conducting plan review; building inspections; and collaborating with sister agencies, the

201 building industry, and the community to increase the sustainability of the built environment;

202 (E) Surveyor’s Office, which shall produce and maintain the legal records

203 of all land plats and subdivisions of private and District government property within the District

204 of Columbia;

205 (F) Third-Party Inspection Program, which shall provide supplemental
206 staff for the Department's plan review and inspection divisions, and shall ensure the suitability
207 and quality of and authorize private entities to perform inspections and plan reviews and to
208 certify to the Department that such work complies with the District of Columbia Construction
209 Codes;

210 (G) Zoning Administration, which shall:

211 (i) Review applications for conformity with District of Columbia
212 zoning regulations (11 DCMR § X);

213 (ii) Enforce zoning regulations;

214 (iii) Write letters of determination or of denial regarding the
215 relevant zoning regulations applicable to specific development proposals; and

216 (iv) Refers developers to the Board of Zoning Adjustment and the
217 Zoning Board if they want to seek special exceptions or zoning variances to the Administrator's
218 rulings;

219 (5) The Office of Residential Inspection, headed by a Chief Inspection Official,
220 with subordinate staff responsible for:

221 (A) Vacant and Blighted Property Division, which shall investigate and
222 classify vacant and blighted buildings;

223 (B) Rental Housing Inspections Division, which shall protect District
224 tenants by ensuring habitable housing by conducting both proactive and complaint-based
225 residential housing inspections of housing and property maintenance code and regulation
226 violations;

227 (C) Housing Rehabilitation Division, which shall:

- 228 (i) Abate housing and building code violations;
- 229 (ii) Process abatement contracts; and
- 230 (iii) Collect unpaid abatement costs;
- 231 (6) The Office of Strategic Code Enforcement, headed by the Strategic
- 232 Enforcement Administrator established in section 105 of this act, with subordinate staff
- 233 responsible for:
 - 234 (A) Code Enforcement Division, which shall:
 - 235 (i) Coordinate and monitor enforcement of violations cited by the
 - 236 Department's regulatory programs;
 - 237 (ii) Work closely with the Office of the Attorney General to
 - 238 compel compliance through judicial orders;
 - 239 (iii) Conduct compliance surveys; and
 - 240 (iv) Issue Notices of Infraction for violations;
 - 241 (B) Civil Infractions and Fine Assessment Division, which shall:
 - 242 (i) Process all civil infractions with the Office of Administrative
 - 243 Hearings;
 - 244 (ii) Collect fines; and
 - 245 (iii) Place property liens on unpaid fines.

246 Sec. 107. Implementation and Transition Plan.

- 247 (a) The City Administrator shall prepare and submit to the Council a comprehensive
- 248 transition plan and timeline to facilitate the implementation of this act.
- 249 (b) The transition plan shall include:

250 (1) A proposed organizational plan, including an organization chart, which
251 reflects the proposed reporting structure for the Department consistent with this act, due 60 days
252 after the effective date of this act;

253 (2) A strategic human capital plan which identifies the skills and personnel
254 necessary for the functions covered by this act, identifies current available human resources,
255 identifies the training necessary to ensure staff are prepared to perform, and identifies recruiting
256 priorities and efforts, due 120 days after the effective date of this act;

257 (3) A Communications Strategy, which articulates the methods by which the
258 Executive will share the mission and scope of the Department with the public, stakeholders, and
259 the regulated community, metrics by which to judge the success of the plan, and alternative
260 outreach options to improve success of the plan, due 120 days after the effective date of this act;

261 (4) A Comprehensive Document Control Inventory which identifies the
262 documents, collateral, and assets that must be revised to reflect the change in responsibility to the
263 Department of Buildings and the change in name of the former Department of Consumer and
264 Regulatory Affairs to the Department of Licensing and Consumer Protection, due 180 days after
265 the effective date of this act;

266 (5) A Business Process Analysis and Reengineering Assessment which identifies
267 the processes by which the Department of Consumer and Regulatory Affairs currently performs
268 each of the functions covered by this act, evaluates the effectiveness of each existing process,
269 identifies potential process improvements, prioritizes eliminating process inefficiencies, and
270 provides redesigned operational processes for the Department of Buildings to adopt these
271 functions, due one year after the effective date of this act; and

272 (6) An information technology needs assessment which identifies the resources
273 and tools necessary to enable operations where a single system, or a minimal number of fully
274 integrated systems, facilitate plan review, enforcement, and records management across all
275 relevant review and enforcement agencies, due one year after the effective date of this act.

276 (c) The timeline shall include progress points by which the Council may track the
277 implementation of this act.

278 (d) As of the effective date of this act, the Mayor shall provide quarterly updates on the
279 progress of developing the deliverables identified in paragraph (b) of this section.

280

281 **TITLE II. AGENCY PLANNING REPORTING REQUIREMENTS**

282 Sec. 201. Strategic Enforcement Plan.

283 (a) On or before January 1, 2021 and every three years thereafter, the SEA shall submit to
284 the Council a Strategic Enforcement Plan that:

285 (1) Establishes priorities;

286 (2) Identifies available and needed resources while integrating the Department's
287 enforcement functions; and

288 (3) Identifies instances in which the Department can leverage the enforcement
289 efforts of sister agencies with which the Department has adjacent, overlapping or shared
290 authority.

291 (b) The plan required under paragraph (a) shall rely on existing data and industry best
292 practices to determine enforcement priorities for the duration of the plan.

293 (c) In developing the plan required under paragraph (a) the SEA shall afford great weight
294 to available complaint data and community sentiment.

295 Sec. 202. Annual Enforcement Report.

296 (a) On or before January 1, 2022 and every year thereafter, the Director shall submit to
297 the Council, an annual report, detailing the enforcement activities of the prior fiscal year of the
298 Department.

299 (b) The report required under paragraph (a) shall assess the Department's progress
300 against the Strategic Enforcement Plan required under section 201 and identify any changes to
301 operations necessary to implement said Plan.

302 (c) The report required under paragraph (a) shall also include the following data for the
303 prior fiscal year:

304 (1) Complaint data: detailing the number, type, method, determination of validity,
305 and resolution of complaints received by the Department;

306 (2) Violation data: detailing the violations identified, cited, in the prior fiscal year
307 and their status as abated or unresolved as of the date of the report;

308 (3) Fine Collection data: detailing the dollar value of the fines assessed, dollar
309 value of the fines assessed versus the fines collected, violations for which the fines were issued,
310 and identifying any reduction in fine amount due to an action by an administrative judge to
311 reduce the assessed fine, adverse judgment at an administrative hearing, administrative
312 settlement or dismissal by the Department, or other means resulting in a collection less than the
313 levied amount, and any fines not yet collected as of the date of the report;

314 (4) Abatement efficacy: detailing the number and nature of abatement orders, the
315 number of days taken to abate each order, the number of extensions granted by type of abatement
316 order, the justification for each extension, and the location of each abatement order, and its status
317 as abated or unresolved as of the date of the report;

318 (5) Enforcement Escalation data: detailing the number of violations referred to the
319 Attorney General for the District of Columbia, the aggregate dollar amount assessed, and a
320 description of the matters referred; and

321 (6) Collections Escalation data: detailing the number of violations referred to the
322 Central Collections Unit.

323 **TITLE III. REDESIGNATION OF THE DEPARTMENT OF CONSUMER AND**
324 **REGULATORY AFFAIRS**

325 Sec. 301. Redesignation.

326 The Department of Consumer and Regulatory Affairs shall be redesignated as the
327 Department of Licensing and Consumer Protections.

328

329 **TITLE IV. RULEMAKING AUTHORITY; SAVINGS CLAUSE**

330 Sec. 401. Rules.

331 (a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure
332 Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue
333 rules to implement the provisions of this act, including establishing fines, permit fees, and other
334 fees necessary to support the implementation of this act.

335 (b) Proposed rules promulgated pursuant to subsection (a) of this section shall be
336 submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal
337 holidays, and days of Council recess. If the Council does not approve or disapprove the proposed
338 rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be
339 deemed to be approved.

340 Sec. 402. Savings clause.

341 The rules any agency, department, or administration, the functions of which are
342 transferred by this act to the Department of Buildings, has promulgated that do not conflict with
343 this act shall remain in effect until amended or repealed by rules promulgated in accordance with
344 this act.

345

346 **TITLE V. CONFORMING AMENDMENTS**

347 Sec. 501. Conforming Amendments.

348 (a) The following functions and duties shall be transferred to the Department of Buildings
349 by October 1, 2019, as follows:

350 (1) The functions of the Department of Consumer and Regulatory Affairs as set
351 forth in section III (A)(4-5) and (B)(3, 6-11) of Reorganization Plan No. 1 of 1983, effective
352 March 31, 1983 shall be transferred to the Department of Buildings, by October 1, 2020.

353 (2) The functions and duties as set forth in section XX of An Act to (D.C. Law
354 D.C. Official Code § 2-101 et seq),

355 (b) Section 26 of the District of Columbia Housing Authority Act of 1999, effective May
356 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-225) is amended as follows:

- 357 (1) Strike the word “and” from paragraph (5);
- 358 (2) Strike the period of paragraph (6) and insert “; and” in its place;
- 359 (3) Insert a new paragraph (7) to read as follows: “The Department of Buildings.”

360 (b) The District of Columbia Applications Insurance Implementation Act, effective May
361 26, 1976 (D.C. Law 1-64; D.C. Official Code §§ 6-501- 6-506) is amended by adding a new
362 section 6A to read as follows:

363 (6B) The Mayor shall delegate the functions enumerated in this chapter to the Director of
364 the Department of Buildings.

365 (c) An Act To regulate the height of buildings in the District of Columbia, as amended,
366 effective June 1, 1910 (D.C. Official Code § 6-601) is amended as follows:

367 (1) Section 5 (D.C. Official Code § 6-601.05) is amended as follows:

368 (A) Strike the phrase “Office of the Inspector of Buildings of the District
369 of Columbia” and insert the phrase “Department of Buildings” in its place;

370 (d) An Act Providing for the zoning of the District of Columbia and the regulation of the
371 location, height, bulk, and used of buildings and other structures and of the uses of land in the
372 District of Columbia, and for the purposes, as amended, effective June 20, 1938 (52 Stat. 800;
373 D.C. Official Code §§ 6-641.01 – 6-641.15) is amended as follows:

374 (1) Section 8 (D.C. Official Code § 6-641.07) is amended as follows:

375 (A) Strike the phrase “Inspector of Buildings” and insert the phrase
376 “Director of the Department of Buildings” in its place;

377 (2) Section 10 (D.C. Official Code § 6-641.09) is amended as follows:

378 (A) Strike the phrase “Inspector of Buildings” and insert the phrase
379 “Director of the Department of Buildings” in its place;

380 (B) Strike the word “Inspector” and insert the word “Director” in its place;

381 (C) Strike the phrase “Corporation Counsel” wherever it appears and
382 insert “Attorney General for the District of Columbia” in its place; and

383 (D) Strike the phrase “The Department of Consumer and Regulatory
384 Affairs” and insert the phrase “Department of Buildings” in its place.

385 (e) An Act Making appropriations to provide for the expenses of the government of the
386 District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, and for
387 other purposes, as amended, effective March 3, 1909 (35 Stat. 689; D.C. Official Code §§ 6-
388 661.01 – 6-661.02) is amended by striking the phrase “Inspector of Buildings” wherever it
389 appears and inserting the phrase “Director of the Department of Buildings” in its place.

390 (a) All staff, property, records, and unexpended balances of appropriations, allocations,
391 and other funds available or to be made available relating to the duties and functions assigned
392 herein, shall be transferred to the Department of Buildings by October 1, 2019.

393 OR

394 (a) The Mayor shall transfer to Department of Buildings, by October 1, 2019, as feasible:

395 (1) Existing staff, property, records, and unexpended balances of appropriations,
396 allocations, and other funds available or to be made available relating to the duties and functions
397 related to housing code enforcement, permitting;

398

399 **TITLE VI. FISCAL IMPACT STATEMENT; EFFECTIVE DATE**

400 Sec. 601. Fiscal impact statement.

401 The Council adopts the fiscal impact statement in the committee report as the fiscal
402 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
403 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

404 Sec. 502. Effective date.

405 This act shall take effect following approval by the Mayor (or in the event of veto by the
406 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
407 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
408 24, 1973, (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
409 Columbia Register.