



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 120297

Introduced April 19, 2012

**Councilmembers Henon, Squilla, Tasco, Quiñones Sánchez, Jones, Bass,
Johnson, O'Brien, Goode, Greenlee, Kenney, Blackwell, Oh, Council
President Clarke, Councilmembers Green and O'Neill**

**Referred to the
Committee on Licenses and Inspections**

AN ORDINANCE

Amending Title 4 of The Philadelphia Code, the Philadelphia Building Construction and Occupancy Code, to provide for the designation of certain properties as nuisance properties, the creation of a Problem Property Task Force to address such properties, and to further provide for penalties for, and remediation of, such nuisance properties, and for the eviction of tenants of such properties, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 4 of The Philadelphia Code, Subcode PM, The Philadelphia Property Maintenance Code, is hereby amended to read as follows:

**TITLE 4. THE PHILADELPHIA BUILDING CONSTRUCTION AND OCCUPANCY
CODE**

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SUBCODE "PM" (THE PHILADELPHIA PROPERTY MAINTENANCE CODE)

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**CHAPTER 3
GENERAL PROPERTY AND STRUCTURAL MAINTENANCE**

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SECTION PM-314.0. PROBLEM PROPERTIES

PM-314.1. Definitions.

Code Violation. Any notice or process issued for a violation of The Philadelphia Code.

Criminal Complaint. Any process whereby proceedings for the adjudication of a criminal offense are initiated in a court of law.

PM-314.2. Problem Property Task Force.

(1) City Council hereby calls upon the Mayor to establish the Problem Property Task Force, which shall consist of the following persons or their designees:

- (a) Managing Director
- (b) Police Commissioner
- (c) Fire Commissioner
- (d) Commissioner of Licenses and Inspections
- (e) Health Commissioner
- (f) Commissioner of Streets
- (g) City Solicitor
- (h) Director of the Office of Housing and Community Development
- (i) Commissioner of Revenue
- (j) District Attorney
- (k) President of City Council
- (l) Such other persons as the Mayor deems necessary

(2) The Problem Property Task Force shall recommend findings to the Managing Director as to whether properties are problem properties as set forth under this Section, and may recommend other actions not inconsistent with this Section to the Managing Director.

(3) The Managing Director, who shall act as the chair of the Problem Property Task Force, may accept or reject the recommendations of the Problem Property Task Force pursuant to this Section, and may make any determination pursuant to this Section on his or her own motion.

(4) The Managing Director shall, annually, furnish a report on the activities of the Problem Properties Task Force to the Mayor and Council, and make recommendations for improvements.

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PM-314.3. Problem Properties.

(1) *A residential property that is found to be a problem property pursuant to this Section is hereby declared to be a public nuisance, and shall be subject to all remedies available by law. The Managing Director shall declare that any residential property that meets both of the following criteria is a problem property:*

(a) *In the past 24 months, and with respect to activities or conditions on the property, two or more violations of the following provisions have occurred, and resulted in final determinations of liability:*

(.1) *Subcode PM of Title 4 (The Philadelphia Property Maintenance Code)*

(.2) *Chapter 10-400 (Excessive Noise and Vibration)*

(.3) *Section 10-714 (Owner to Maintain Premises Free of Litter)*

(b) *Persistent, unabated activities or conditions on the property related to, or substantially similar to, the offenses enumerated under subsection (1)(a) perpetuate a significant danger to health or safety, or otherwise threaten the quality of life or the general welfare. Code violations or criminal complaints issued with respect to activities or conditions on the property that have not resulted in a final determination of liability may be considered in making this determination.*

(2) *Upon a finding by the Managing Director that a property is a problem property, notice of the finding shall be given (a) by first class mail to the owner of the property, and, if known, to tenants; and (b) by affixation to the main entrance to the dwelling structure, or where such affixation is impracticable, by prominently posting or affixing the notice elsewhere on the property. Such notice shall fully state the basis for the Managing Director's finding, and state the remedial measures to be taken.*

(3) *The Managing Director may amend his or her findings at any time to add Code violations or criminal complaints that have resulted in final determinations of liability since the initial finding pursuant to subsection (1).*

(a) *Such amendment shall state the manner in which the additional Code violations or criminal complaints perpetuate a significant danger to health or safety, or otherwise threaten the quality of life or the general welfare.*

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(b) Notice of such amendment shall be given in the same manner as the initial finding under subsection (2).

PM-314.4. Removal of Problem Property Designation.

(1) The Managing Director shall remove the problem property designation from a property upon finding that the property no longer perpetuates a significant danger to health or safety, and no longer otherwise threatens the quality of life or the general welfare. Participation in an educational program designed by the Problem Property Task Force, and approved by the Managing Director, to educate participants on the duties and appropriate conduct of landlords or inhabitants, as the case may be, shall be considered in reaching a determination under this subsection.

(2) The problem property designation shall be removed from a property if any of the following conditions are met:

(a) For a period of 24 months from the date of the most recent Code violation or criminal complaint with respect to an activity or condition on the property, no further code violation or criminal conduct is found with respect to any condition or activity on the property.

(b) Ownership of the property is transferred to another person in a transaction subject to the Realty Transfer Tax pursuant to Chapter 19-1400; or to the City or the Philadelphia Redevelopment Authority.

(3) The owner of a property declared to be a problem property may petition the Managing Director to remove the problem property designation from such property if the property meets the criteria set forth in subsection (1) or (2). Notice of the Managing Director's determination under this subsection (3) shall be sent by first class mail to the owner.

PM-314.5. Remedies, Abatement, and Supervision.

(1) Any Code violation that constitutes part of the basis for a finding under PM-314.3(1)(a) that a property is a problem property shall be corrected within 14 days after notice is mailed pursuant to PM-314.3(2), or within such time as otherwise provided by law for the remedy of such violation, whichever is longer. Each day beyond such time that the violation persists shall be separately punishable by a fine of up to

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\$2,000 per day. Any fine imposed pursuant to this subsection (1) may be fully or partially remitted under any of the following circumstances:

(a) The person or persons against whom any fine would be imposed participates in an educational program designed by the Problem Property Task Force, and approved by the Managing Director, to educate participants on the duties and appropriate conduct of landlords or inhabitants, as the case may be.

(b) The person or persons against whom any fine would be imposed executes an agreement with the Managing Director, or such agency as he or she may designate, to promptly correct all violations according to the terms of such agreement, and fully performs the agreement.

(2) If a problem property at any time presents a severe and intractable harm to the surrounding community, the Managing Director may direct the Police Department to post an officer at the property during whatever hours necessary, and for whatever duration necessary to prevent such harm. The person or persons responsible for causing or remedying such harm shall be liable for the cost of posting an officer at such property. To the extent permitted by law, a lien may be imposed on the property for such amount, along with all other costs allowed by law.

(3) The Department of Licenses and Inspections may, by regulation, establish and impose a fee for any inspections necessary to determine whether any Code violation that constitutes part of the basis for a problem property finding under PM-314.3(1)(a) has been corrected.

(4) The Managing Director may take the following actions:

(a) direct that the Department of Licenses and Inspections regularly monitor a problem property for code violations;

(b) recommend that the Department of Revenue pursue foreclosure proceedings against any problem property with respect to which property taxes are delinquent;

(c) refer problem properties that are owned, controlled, or otherwise administered by the Philadelphia Housing Authority, to such authority, for appropriate action under applicable state and federal law;

(d) recommend to the Commissioner of Public Property that a problem property that is vacant be considered for acquisition;

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(e) refer a problem property to the District Attorney;

(f) direct the Police Department or another agency to provide testimony or other evidence in an eviction proceeding brought for violation of a term included in a lease pursuant to Section PM-314.6;

(g) take any other action with respect to a problem property deemed necessary or appropriate, and consistent with the purposes of this Section, and the requirements of law.

PM-314.6. Eviction of Tenants.

(1) The following term shall be implied in all residential leases, and included as a written term in all such leases reduced to writing for any lease executed or renewed after the effective date of this Section: The tenant may be evicted, pursuant to law, where the Managing Director has found the property to be a problem property based upon code violations or criminal complaints issued for activities conducted by, or conditions created by, the tenant.

(2) A finding of the Managing Director that the property is a problem property, based upon code violations or criminal complaints issued for activities conducted by, or conditions created by, the tenant, shall be deemed to be just cause to terminate a lease under § 9-804(1)(a).

PM-314.7. Appeals: Any action of the Managing Director under this Section may be appealed to the Board of Licenses and Inspections Review. A hearing request must be made in writing to the Department of Licenses and Inspections within 30 days after the date the notice of the action is mailed, and shall be treated as a non-technical appeal pursuant to Sections A-803 through A-805 of this Title.

SECTION 2. This Ordinance shall be effective immediately.