

Legislation Details (With Text)

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File created: 9/13/2012 **In control:** Committee on Licenses and Inspections

On agenda: **Final action:** 12/12/2013

Title: Amending Title 4 of The Philadelphia Code, entitled "The Philadelphia Building Construction and Occupancy Code," by repealing Subcode PM, entitled "The Philadelphia Property Maintenance Code," and adopting and incorporating, with certain additions, deletions and amendments, the 2009 International Property Maintenance Code as the Philadelphia Property Maintenance Code; further amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades, and Professions," to recodify, consolidate, revise, modify, and set forth provisions regulating certain or all rental properties and tenants thereof and certain or all vacant properties, previously set forth by the Philadelphia Property Maintenance Code and other provisions; and further making technical and conforming amendments throughout The Philadelphia Code; all under certain terms and conditions.

Sponsors: Councilmember Henon, Councilmember Jones, Councilmember Green, Councilmember Greenlee, Councilmember Quiñones Sánchez, Councilmember Tasco

Indexes:

Code sections: SUBCODE "PM" - (THE PHILADELPHIA PROPERTY MAINTENANCE CODE), Title 4 - THE PHILADELPHIA BUILDING CONSTRUCTION AND OCCUPANCY CODE, Title 9 - REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

Attachments: 1. 120647 - Exhibit A, As Amended.pdf, 2. 120647 - Exhibit A, As Amended for Editing.doc, 3. CertifiedCopy12064701.pdf

Date	Ver.	Action By	Action	Result	Tally
1/20/2014	1	MAYOR	SIGNED		
12/12/2013	1	CITY COUNCIL	PASSED	Pass	16:0
12/5/2013	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
12/5/2013	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY'S FIRST READING CALENDAR		
12/5/2013	1	CITY COUNCIL	ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR		
11/26/2013	0	Committee on Licenses and Inspections	HEARING NOTICES SENT		
11/26/2013	0	Committee on Licenses and Inspections	HEARING HELD		
11/26/2013	0	Committee on Licenses and Inspections	AMENDED		
11/26/2013	1	Committee on Licenses and Inspections	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
12/4/2012	0	Committee on Licenses and Inspections	HEARING NOTICES SENT		
12/4/2012	0	Committee on Licenses and Inspections	RECESSED		
10/23/2012	0	Committee on Licenses and Inspections	HEARING NOTICES SENT		
10/23/2012	0	Committee on Licenses and Inspections	HEARING HELD		

10/23/2012	0	Committee on Licenses and Inspections	RECESSED	
9/13/2012	0	CITY COUNCIL	Introduced and Referred	Pass

Amending Title 4 of The Philadelphia Code, entitled “The Philadelphia Building Construction and Occupancy Code,” by repealing Subcode PM, entitled “The Philadelphia Property Maintenance Code,” and adopting and incorporating, with certain additions, deletions and amendments, the 2009 International Property Maintenance Code as the Philadelphia Property Maintenance Code; further amending Title 9 of The Philadelphia Code, entitled “Regulation of Businesses, Trades, and Professions,” to recodify, consolidate, revise, modify, and set forth provisions regulating certain or all rental properties and tenants thereof and certain or all vacant properties, previously set forth by the Philadelphia Property Maintenance Code and other provisions; and further making technical and conforming amendments throughout The Philadelphia Code; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Subcode PM (“The Philadelphia Property Maintenance Code”) of Title 4 of The Philadelphia Code (“The Philadelphia Building Construction and Occupancy Code”) is hereby repealed in its entirety, and Title 4 is further amended to read as follows:

TITLE 4. THE PHILADELPHIA BUILDING CONSTRUCTION AND OCCUPANCY CODE

* * *

CHAPTER 4-200.0 TEXT OF SUBCODES

* * *

SUBCODE “PM” (THE PHILADELPHIA PROPERTY MAINTENANCE CODE)

*§PM-1. The International Property Maintenance Code, with certain deletions and additions, all as shown in §PM-4, is hereby adopted as The Philadelphia Property Maintenance Code. Section PM-4 shows language adopted without change from the International Property Maintenance Code in regular text; deletions from that Code are indicated by strikethrough text (for example: ~~strikethrough text~~); and additions to that Code are indicated by bold, underlined text (for example: **bold underlined text**).*

§PM-2. All material in §PM-4 that is reprinted from the International Property Maintenance Code is proprietary to and copyrighted by, or licensed to, International Code Council, Inc., ALL RIGHTS RESERVED. For information on permission to copy International Code Council, Inc. material contained herein, please contact: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478. Phone 1-888-ICC-SAFE (422-7233).

§PM-3. Throughout §PM-4, references to “International” codes or “ICC” codes shall be deemed to refer to the “Philadelphia” codes of the same name.

* * *

SECTION 2. Section PM-4 of The Philadelphia Property Maintenance Code is hereby adopted, to read as set forth in Exhibit “A” hereto.

SECTION 3. Title 9 of The Philadelphia Code is hereby amended, to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

* * *

CHAPTER 9-3900. PROPERTY LICENSES AND OWNER ACCOUNTABILITY.

§9-3901. General Provisions.

(1) *Administration.* Subcode A (The Philadelphia Administrative Code) of Title 4 shall apply with respect to the provisions of this Chapter, and govern their administration. Chapter 9-100 shall not apply to this Chapter. Terms shall be defined as set forth in §PM-202, unless otherwise defined herein.

§9-3902. Licensing.

(1) *Dwellings.* No person shall operate a multiple-family dwelling, rooming house, dormitory or hotel, or offer for rent a one-family dwelling, two family dwelling or a rooming unit therein without first obtaining a housing inspection license from the Department. Every person applying for a license shall supply, in addition to such information as required herein, such information as the Department requires and shall pay an annual fee as set forth in the administrative code.

(a) *Certification of Compliance with Lead Safety Certification Requirements.* As a condition of receipt of a housing inspection license, and upon its annual renewal, every person shall:

(.1) identify each unit in Targeted Housing in connection with which a new lease was entered into in the 12 months preceding the date of application; and

(.2) certify that the requirements of Code Section 6-803 regarding the provision of a lead safe or lead free certification to all new lessees in Targeted Housing, and the requirements of Section 6-803(c) regarding provision of written notification to all new lessees and correction of any defects after receipt of notice of same, have been complied with in connection with each such lease.

A housing inspection license may be revoked based on the provision of a false certification pursuant to this subsection (1)(a).

(b) *Special Requirement In Educational Housing Districts.* In addition to the other conditions for obtaining a license under this Section, no person shall be issued a housing inspection license for a property located in an Educational Housing District in which the total number of students living in the building exceeds 25, or in which the percentage of dwelling units in the building in which at least one student lives exceeds 25% of the dwelling units of such building, and no such license shall be renewed, unless such person obtains a certification from the Department stating that within the last ninety days the property has been inspected by the Department and is in substantial compliance with the requirements of the Building Construction and Occupancy Code. The fee for such an inspection shall be established by the Department by regulation. For purposes of this subsection, the terms "Educational Housing District" and "student" shall have the meanings as defined in Chapter 10-1800 of the Code.

(2) *Occupancy.* Every housing inspection license for a rooming house, dormitory or hotel shall specify the maximum number of occupants allowed to occupy the building.

(3) *Individual unit.* An individual housing inspection license need not be obtained if one has been issued for the building in which a dwelling or rooming unit is located.

(4) *Vacant structures or lots.* The owner of every vacant lot, vacant building or vacant wharf, pier or dock shall obtain a license from the Department. Every person applying for a license shall supply such information as the Department requires and shall pay an annual fee as set forth in the administrative code. The owner of any vacant commercial structure, or of any Large Vacant Commercial or Industrial Property as defined by §PM-202, shall post a bond or other security in form approved by the Law Department and in an amount determined by the Department to be necessary to secure the City's potential cost of correcting Code violations or abating unsafe or imminently dangerous conditions as authorized by §PM-304.21.10, §PM-310.6, §PM-311.4, or any other provision of this code. If the City does incur such costs, the City may recover such costs from the posted bond or other security, in addition to pursuing any other remedy authorized by law. The bond or other security shall provide that it will not expire and the City need not release it upon transfer of the property unless and until a subsequent owner posts a comparable bond or other security. Failure to post the required security or to maintain such security may result in the suspension or denial of any license issued to the owner under this code, which license suspension(s) or denial(s) shall continue until the owner has posted the required security. No license shall be suspended under this provision until the owner has been provided written notice and an opportunity for a hearing.

(a) *Timeliness.* A license shall be obtained not later than 30 days following the vacating of a building or lot.

(b) *Contiguous lots.* Contiguous vacant lots shall be exempt from separate licensing when either of the following conditions exist:

(.1) *Vacant lots are contiguous to and in common ownership with a vacant lot licensed in accordance with this Section.* This provision shall include building lots in common ownership with an approved subdivision provided that a license is obtained for the subdivision tract.

(.2) *Vacant lots contiguous to or separated by a driveway from a building where there is common ownership of the lot and the building.* This exemption includes a contiguous lot owned and maintained by the abutting property owner as a side yard.

(c) *Exemptions.*

(.1) *A person who takes ownership of a property pursuant to an Abatement Agreement under the Emergency Nuisance Abatement Program, set forth in Chapter 9 of the Philadelphia Property Maintenance Code, shall be exempt from the foregoing license and bond requirements for a period of two years after taking ownership of the property.*

(.2) *A lot that is continuously maintained as a garden shall be exempt from the foregoing license requirements.*

(5) *License applications.* Every license application shall include the information listed in subsections (5)(a) through (5)(c), plus such other information deemed necessary by the Department.

(a) *Address.* An identification of the property by street number and names of all streets contiguous to the property, where such exist.

(b) Owner. An identification of the owner by name, residence and business address. If the owner is a corporation, the identification shall include the name and address of such corporation, together with the name, residence and business address of at least one principal. If the owner is under the age of eighteen years or has been judicially declared incompetent, a legal representative shall file the license application.

(1) Multiple-family dwellings and roominghouses. License applications filed pursuant to this Section shall include the name and address of a managing agent designated pursuant to subsection (6)(e).

(c) Signatures. The signature of the owner, or if the owner is a corporation, of any officer. The managing agent, where one is required by subsection (6)(e), shall also sign the application to indicate consent to the designation except that such consent is not required if any owner or officer of a corporation serves as the managing agent.

(6) Condition of license. All licenses required by this code shall be subject to the conditions set forth in subsections (6)(a) through (6)(g).

(a) Term. Licenses shall be valid for a period of one year. The Department shall fix the license year on a basis it deems desirable for efficient administration. If a license year is changed, any person holding a license shall receive credit for the unexpired term.

(b) Transfer. No license required by this code shall be transferable. The new owner shall obtain a new license from the Department within ten days after the transfer in any manner of ownership or control of the interest in such property.

(c) Changes. An owner, who is required to be licensed under this Chapter, shall inform the Department in writing by first-class mail and shall amend the license application within five days if there is a change of address of the owner, a change in the list of officers of the owner corporation, a change of address of any of such listed officers, or vacating of an excepted unit by an owner.

(d) Rent collection. No person shall collect rent with respect to any property that is required to be licensed pursuant to this code unless a valid license has been issued for said property. At the inception of each tenancy, an owner shall provide to the tenant a Certificate of Rental Suitability issued by the Department no more than sixty (60) days prior to the inception of the tenancy along with a copy of the owner's attestation to the suitability of the dwelling unit as received by the department and a copy of the "City of Philadelphia Partners for Good Housing Handbook" issued by the Department and any succeeding documents.

(1) Certificate of Rental Suitability.

(.a) The department shall issue a Certificate of Rental Suitability only upon a determination that:

(i) The owner of the property has obtained all required licenses with respect to the property, including a Housing Inspection License.

(ii) There are no outstanding violation notices under this Title with respect to the property.

(iii) The owner of the premises to be leased has attested to all the following: all fire protection and smoke detection equipment for the premises is present and in proper operating order in

accordance with all applicable requirements of The Philadelphia Code and regulations and standards adopted thereunder; the operating systems and the property are free from defects which affect the health and safety of the occupants or the habitability of the property, and including but not limited to those set forth in department regulation and forms; and the owner will continue to maintain the operating systems and the property free from defects which affect the health and safety of the occupants and the habitability of the property throughout the tenancy.

(.a) Failure by the owner to correct code violations covered by subsection (d)(.1)(.a)(iii) within thirty (30) days of receiving a notice of violation, or sooner as indicated by the department, shall be considered to be noncompliant with this Section of the code.

(iv) The owner of the property has paid such fee as the department shall provide for, by regulation, for the Certificate and any required inspections.

(.b) The Certificate shall set forth the applicable Housing Inspection License number for the property, the date of the last inspection conducted by the department (where applicable) and the applicable zoning designation, and shall set out the process by which a tenant may request a further inspection of the property by the Department.

(e) Managing agents and property managers. The owner of a one-family, two-family or multiple-family dwelling, rooming house, dormitory or hotel shall designate a managing agent as defined in Section 202. Any person who resides in Philadelphia or customarily and regularly attends a business office maintained within Philadelphia, and who collects rent on behalf of an owner required by this section to designate a managing agent, shall be deemed that owner's managing agent, notwithstanding the other qualifications for managing agent set forth in Section 202. Any owner of (i) more than three residential parcels; (ii) a multiple-family dwelling with four or more units; or (iii) a rooming house; who does not reside within the City or within a surrounding county; shall also designate a property manager. In addition, the Department shall have the power to compel any owner to designate a property manager if it determines that such an action is necessary to protect public health, safety, and welfare. The same person may serve as both managing agent and property manager.

(.1) Termination by owner. To terminate a managing agent or property manager, the owner shall file with the Department a statement designating a qualified successor. A qualified successor shall be designated by the owner within ten days after terminating a managing agent or property manager and the Department shall be notified by first-class mail of that change within three days after selection of the qualified successor.

(.2) Termination by managing agent or property manager. To terminate the relationship with the owner as that owner's managing agent or property manager, the managing agent or property manager shall serve a written notice on the owner and the Department. The notice to the Department shall set forth the license number and address of the property and the name and address of the owner together with an affidavit of proof of service upon the owner. Service upon the owner shall be made by delivery of a copy personally to the owner or any principal if the owner is a corporation, by registered mail to the address of any owner or principal as set forth in the license application, or by delivery to any person of suitable age and discretion at the address of the owner or any principal as set forth in the license application. Upon termination under this subsection by the managing agent or property manager, the owner shall file with the Department a statement designating a qualified successor within ten days.

(.3) Other circumstances. If the designation of a managing agent or property manager shall

(a) cease to be effective as a result of death or judicial declaration of incompetence of the managing agent or property manager; (b) cease to be effective as a result of disqualification because of relocation from Philadelphia or a bordering county; or (c) become necessary due to action by the Department compelling designation of a property manager under subsection (6)(e), the owner shall file a statement with the Department within ten days thereafter designating a qualified managing agent or property manager, as necessary.

(.4) *Alternate agent.* Any owner who is required to file a license application under this code and who fails to comply with the provisions of this Section as required shall be deemed to have appointed the Managing Director of the City of Philadelphia as agent for purposes of accepting service of process in connection with any action by the City or any other party arising out of the condition of the property or any other matter relating to the property.

(.5) *Filing requirements.* All managing agents and, where a property manager is required, property managers, shall provide in a form specified by the Department, the following information, which the Department shall maintain in a form accessible to other City departments:

(.a) The name, address and phone number of the property manager or managing agent;

(.b) The business income and receipts tax number, if a commercial activity license is required, of the property manager or managing agent;

(.c) A list of the premises for which the property manager or managing agent has been designated.

(.d) Property managers shall also provide the following in connection with each premises:

(i) The name of the natural person primarily responsible for management of the premises;

(ii) The business and emergency telephone numbers for such person; and

(iii) The name, address and telephone number of the record owner for each premises.

(.e) Property managers and managing agents shall update the reports required by this Section as needed, to add and delete premises managed or no longer managed and report changes in the ownership of the premises within thirty days of the change of the status of the property.

(f) *Notice of information regarding responsibility for property maintenance.* The owner of every occupied premises shall furnish written notice to each tenant thereof containing (a) the name, address, and telephone number of the property manager, or (b) where no property manager is designated, the name, address, and telephone number of the person(s) or business responsible for the maintenance and management of the building. Whenever any information required by this subsection changes, the owner shall immediately furnish updated information to each tenant.

(7) *Penalties.* In addition to penalties set forth in Subcode A (The Philadelphia Administrative Code) of Title 4, the additional specific penalties set forth in the following subsections shall apply.

(a) Non-compliance. Any owner who is required to file a license application under this code or who fails to comply with the provisions of this Section as required, or whose license has been suspended or revoked under subsection (7)(b), shall be denied the right to recover possession of the premises or to collect rent during or for the period of noncompliance or during or for the period of license suspension or revocation. In any action to recover possession of real property or to make any claim against a tenant, the owner shall attach a copy of the license together with any amendments thereto.

(b) Suspension and Revocation. Any license issued pursuant to the provisions of this code shall be subject to suspension by the Department for failure to comply with the requirements of this code after a reinspection has been made to determine compliance pursuant to Section A-503.1 of Subcode A, or for failure to pay any fine and/or cost imposed under this code or the administrative code, and such suspension shall continue until there has been compliance and until any unpaid fines and costs have been paid. If a person has had a license suspended under this provision on three occasions, within a period of three years, then each subsequent failure to comply with the requirements of this code or failure to pay any fine and/or cost imposed under this code or the administrative code shall result in revocation of the license, and the person shall not be permitted to apply for any new licenses under this Section for one year after such revocation. The Department shall provide written notice and an opportunity for a hearing prior to any suspension or revocation of a license under this Section.

(c) Code Violation Notice. In accordance with the provisions of Section 1-112(5) of The Philadelphia Code, the code official shall issue a code violation notice in the amount of \$75.00 to persons licensed under this Section who fail to comply with the provisions of subsection (6)(c) regarding notification to the Department of changes pursuant to the issuance of said license. Each day that a violation exists or a person refuses to submit such information as required shall constitute a separate offense.

(8) Private right of action. Any tenant of any property subject to the provisions of this code shall have the right to bring an action against the owner of such property to compel compliance with this code.

(9) Commercial Activity License. No person shall offer for rent any dwelling or dwelling unit without first obtaining a commercial activity license pursuant to Section 19-2602 of The Philadelphia Code.

SECTION 4. This Ordinance shall take effect January 1, 2015.

[Note: Exhibits to this Bill are on file in the Office of the Chief Clerk.]