

Legislation Text

File #: 000771-A, Version: 2

Amending Title 4 of The Philadelphia Code, entitled (“The Philadelphia Building and Construction Occupancy Code”) by adding a new Section PM-312.0 entitled “Overhanging or Encroaching Trees,” by providing for certain penalties and abatement of trees that overhang or encroach adjoining property, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 4 of The Philadelphia Code is hereby amended to read as follows:

TITLE 4. THE PHILADELPHIA BUILDING CONSTRUCTION AND OCCUPANCY CODE

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CHAPTER 4-200. TEXT OF SUBCODES

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SUBCODE “PM” (THE PHILADELPHIA PROPERTY MAINTENANCE CODE)

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SECTION PM 312.0 Overhanging or Encroaching Trees.

PM-312.1. Definitions.

Enforcement Officer. Any person authorized to enforce ordinances, including, but not limited to Code official as defined in Section PM-202.0.

Overhanging or Encroaching Tree. Any tree, any portion of which either

(i) overhangs or rests upon the property of someone other than the owner of the tree in a manner that harms or is likely to harm the other's property; or

(ii) is dead, weakened or decayed such that a significant portion of the tree could reasonably be expected to fall or come to rest upon the property of someone other than the owner.

PM-312.2. Trees. No person shall allow any tree on his or her property to become an Overhanging or Encroaching Tree.

PM-312.3 Duty to Inspect Trees. Owners of private property in the City shall inspect any trees on the owner's property to discover a defect that could potentially cause harm to adjacent or nearby people or property. Owners shall make the trees on their premises reasonably safe by repair or removal.

PM-312.4. Penalties and Enforcement. The enforcement of Section PM-312.0 and penalties for violation thereof are set forth in Sections PM-312.4.1 through 312.4.4.

PM-312.4.1. Notice. An Enforcement Officer is authorized to issue a notice to the owner of property on which any Overhanging or Encroaching Tree is located of a violation of this section and requiring that the owner remedy the violation. Such notice shall advise the owner that fines may be sought and abatement action taken if the violation has not been remedied within thirty (30) days of the date of the warning, except in cases where the tree presents an immediate danger to the health or safety of the public, in which case such notice shall require that the owner remedy the violation immediately and state that ,if not remedied immediately, the Department may take immediate action to do so. Such notice shall advise the owner that he or she will be held responsible for the City's costs of remedying the violation or removal of the tree, if necessary.

PM-312.4.2. Penalty. The penalty for a violation of any provision of this Section shall be a fine of not less than one hundred fifty dollars (\$150) nor more than three hundred dollars (\$300).

PM 312.4.3. Code Violation Notice. If a violation of this section has not been remedied within thirty (30) days of issuance of the notice described in section 312.4.1, or immediately after such notice in cases of immediate danger to the health or safety of the public, an Enforcement Officer is authorized to issue a Code Violation Notice to the property owner pursuant to the procedures set forth in section 1-112 of the Code. The amount required to be remitted in response to a Code Violation Notice issued pursuant to section 1-112 of the Code to enforce this section is fifty (\$50) dollars. Payment in response to a Code Violation Notice shall not excuse the owner's responsibility to remedy the violation.

PM-312.4.4 Abatement. If a Property Owner fails to remove an Overhanging or Encroaching Tree within thirty (30) days after a notice of violation has been issued, pursuant to Section 312.4.1, the Department is authorized to proceed to prune or remove the Overhanging or Encroaching Tree to the extent necessary to cure the violation, except in cases where the tree presents an immediate danger to the health or safety of the public, in which case the Department may take immediate action to remedy the violation if the owner does not do so. The Property Owner shall be responsible for the costs of pruning or removal, including all related administrative costs. A bill for such costs of removal shall be delivered to the Property Owner, and the Department is authorized to file a lien against the property in the amount of such costs. Liability for the cost of remediation under this Section shall be in addition to liability for any fine imposed under this Section. The owner of a tree in violation of this Section shall be responsible and liable for any damage or injury to any person or property caused by the City or its agent in connection with abatement work pursuant to this Section.

PM-312.4.5 Vacant Lots. Within ninety (90) days after a notice of violation has been issued, the Department shall abate any nuisance found on Vacant Lots as this term is defined in Section 19-205(5) of The Philadelphia Code.

PM-312.5. Applicability. This Section shall not apply to any Street Tree consistent with the provisions of Section 15-203 of The Philadelphia Code.

SECTION 2. Effective Date. This Ordinance shall take effect immediately.

Explanation:

Italics indicate new matter added.