City of Philadelphia

City Council
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Title: Amending Title 4 of The Philadelphia Code, entitled “The Philadelphia Building Construction and Occupancy Code,” and Title 9 of The Philadelphia Code, entitled “Regulation of Businesses, Trades and Professions,” to revise provisions relating to excavation work and work impacting historic structures, create an excavation contractor license, and institute additional safeguards for property adjoining certain construction activities; all under certain terms and conditions.

Sponsors: Councilmember Henon

Indexes:

Code sections: Title 4 - THE PHILADELPHIA BUILDING CONSTRUCTION AND OCCUPANCY CODE, Title 9 - REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

Attachments: 1. Bill No. 21038901, As Amended.pdf, 2. CertifiedCopy21038901

Date	Ver.	Action By	Action	Result	Tally
7/15/2021	1	MAYOR	SIGNED		
6/17/2021	1	CITY COUNCIL	READ AND PASSED	Pass	17:0
6/10/2021	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL		
6/10/2021	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY`S FIRST READING CALENDAR		
6/10/2021	1	CITY COUNCIL	READ AND ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR		
6/9/2021	0	Committee on Licenses and Inspections	HEARING NOTICES SENT		
6/9/2021	0	Committee on Licenses and Inspections	HEARING HELD		
6/9/2021	0	Committee on Licenses and Inspections	AMENDED		
6/9/2021	1	Committee on Licenses and Inspections	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
4/29/2021	0	CITY COUNCIL	Introduced and Referred		

Amending Title 4 of The Philadelphia Code, entitled “The Philadelphia Building Construction and Occupancy Code,” and Title 9 of The Philadelphia Code, entitled “Regulation of Businesses, Trades and Professions,” to revise provisions relating to excavation work and work impacting historic structures, create an excavation contractor license, and institute additional safeguards for property adjoining certain construction activities; 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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SUBCODE "A" (THE PHILADELPHIA ADMINISTRATIVE CODE)

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CHAPTER 3
PERMITS

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A-301.1 Permits required: An application shall be submitted to the department for the activities listed in Sections A-301.1.1 through A-301.1.6 and these activities shall not commence without a permit being issued in accordance with Section A-302.0. Where the scope of work includes demolition, moving or removal of a structure greater than one story or greater than 500 square feet, a separate application and permit for such work shall be required. Where the scope of work includes more than one lot, a separate permit shall be required for each lot.

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A-301.1.1 Building permits: A building permit is required for the following activities:

* * *

10. Excavation exceeding a depth of five (5) feet below adjacent grade, excluding digging, trenching, or boring for utilities or geotechnical exploration, unless otherwise required by regulation.

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SECTION A305 CONSTRUCTION DOCUMENTS

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A-305.2 Contents.

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A-305.2.1 Building permits. Specific requirements for building permits include the items or data included in A-305.2.1.1 through [A-305.2.1.6] *A-305.2.1.7*. Other requirements for building permit application construction documents are found in the appropriate Sections of the technical codes.

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A-305.2.1.7 Monitoring plan. A monitoring plan must be submitted where required by the Philadelphia Building Code. The plan must be prepared by a licensed professional engineer and specify scope of monitoring, frequency, and acceptable tolerances.

* * *

A-305.2.2 Demolition permits. Construction documents for a permit for the complete demolition of a structure shall be submitted in accordance with Sections A-305.2.2.1 through [A-305.2.2.4] *A-305.2.2.5*.

* * *

A-305.2.2.5 Monitoring plan. A monitoring plan must be submitted where required by the Philadelphia Building Code. The plan must be prepared by a licensed professional engineer and specify scope of monitoring, frequency, and acceptable tolerances.

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A-305.2.7 Excavation permits. Construction documents for a permit for excavation shall be submitted in accordance with Sections A-305.2.7.1 through A-305.2.7.4.

Exception: Construction documents are not necessary for excavations incidental to a complete demolition of a structure which complies with the requirements of Section A-305.2.2.

A-305.2.7.1 Excavation Plan. An excavation plan prepared by a licensed professional engineer which includes the following information shall be submitted:

1. Identification of elements listed below with the distance between each element and the excavation:

(a) Property lines.

(b) Location and widths of adjacent walkways, streets, and easements.

(c) All existing buildings, including height, number of stories, and construction type.

(d) Neighboring structures on adjacent lots, including height, number of stories, and construction type, within ten feet of the excavation.

(e) Any foundation or retaining wall within ten feet of the excavation, including depth of footing.

(f) Location of utilities within the work area.

2. The area and depth of excavation.

3. Required protections of footings and foundations of buildings and structures within ten feet of the excavation from settlement or lateral translation.

(a) Where no special precautions are warranted, the licensed professional engineer shall provide a sealed statement that no special precautions or measures are required to protect existing footings and foundation on the subject property or on the immediately adjoining property.

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4. Protective or support systems for immediately adjacent rights-of-way, alleys and yards of adjacent properties in accordance with the regulations of the United States Occupational Safety and Hazard Administration.

5. Damp-proofing of exposed foundation walls.

6. Size and location of construction barriers.

7. Underground utility confirmation number.

A-305.2.7.2 Pre-Construction Survey. A preconstruction survey documenting the existing conditions of all adjacent buildings and identifying any potential hazards prepared by a licensed professional engineer must be submitted.

A-305.2.7.3 Requisite approvals. The following approvals shall be required before an excavation permit may be issued:

1. Philadelphia Streets Department approval is required as per Title 11 of The Philadelphia Code for any encroachments into the right-of-way.

2. Philadelphia Water Department approval of stormwater management where the area of disturbance exceeds 5,000 square feet.

A-305.2.7.4 Monitoring plan. A monitoring plan must be submitted where required by the Philadelphia Building Code. The plan must be prepared by a licensed professional engineer and specify scope of monitoring, frequency, and acceptable tolerances.

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CHAPTER 9
FEES

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SECTION A-902 BUILDING, FUEL GAS, AND MECHANICAL CODE FEES

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A-902.2. Construction

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A-902.2.8 Excavation: The fee for excavation as described in Section A-301.1.1 shall be one hundred three dollars ($103).

[A-902.2.8] *A-902.2.9* Undetermined Items: For items of construction or alteration that are not included in Sections A-902.2.1 through [A-902.2.7] *A-902.2.8*, the fee shall be two percent (2%) of the total value of construction, but not less than one hundred twenty-five dollars ($125).

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CHAPTER 10
WORK SITE PUBLIC SAFETY, WORKER TRAINING IDENTIFICATION, AND SIGNAGE

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A-1001.7 Work Site Signage

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A-1001.7.3 Project information sign for all other buildings.

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(e) A statement, in both English and Spanish printed as follows: "TO ANONYMOUSLY REPORT UNSAFE CONDITIONS AT THIS WORK SITE, CALL 311 or 911."; [and]

(f) A statement printed as follows: "To see other permits issued on this property, call 311 or visit www.phila.gov/li."*; and*

(g) Whether the project scope includes an excavation exceeding a depth of five feet below adjacent grade, excluding digging, trenching, or boring for utilities or geotechnical exploration, and is within ten feet of an existing structure.

* * *

SECTION 2. Title 4 of the Philadelphia Code is hereby amended to read as follows:

TITLE 4. THE PHILADELPHIA BUILDING
CONSTRUCTION AND OCCUPANCY CODE

* * *

SUBCODE "B" (THE PHILADELPHIA BUILDING CODE)

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CHAPTER 17
STRUCTURAL TESTS AND SPECIAL INSPECTIONS

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SECTION 1704 SPECIAL INSPECTIONS AND TESTS, CONTRACTOR RESPONSIBILITY AND STRUCTURAL OBSERVATION

Delete Section 1704.6 and replace as follows:

B-1704.6 Structural observations. Where required by the provisions of Section 1704.6.1, 1704.6.2, 1704.6.3 or

B-1704.6.4, the owner or the owner's authorized agent performing or causing construction or demolition operations shall employ a registered design professional to perform structural observations. A design professional conducting structural observations under Section 1704.6.4 or 1704.6.5 shall also meet the provisions of Section 1704.2.1. Structural observation does not include or waive the responsibility for the inspections in Section 110 or the special inspections in Section 1705 or other sections of this code.

Prior to the commencement of observations, the structural observer shall submit to the building official a written statement identifying the frequency and extent of structural observations.

At the conclusion of the work included in the permit, the structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

Add Sections B-1704.6.4 and B-1704.6.5 as follows:

B-1704.6.4 Structural observations of buildings or structures adjacent to excavation, demolition or construction activity. Structural observations shall be provided by an approved agency for the proposed work and with respect to any other adjacent buildings and structures, as applicable, where any of the following conditions exist:

1. Excavation work to a depth of more than 5 feet (1524 mm) below adjacent grade within 10 feet (3048 mm) of an adjacent building or structure. Continuous structural observations shall be provided at all times during excavation work.

2. Excavation, new construction or demolition work occurs within 90 feet (27.43 mm) of a building or structure designated as historic under Chapter 14-1000 of The Philadelphia Code on the subject property or abutting lot. Periodic structural observations shall be provided in accordance with an approved monitoring plan per Section B-3309.

B-1704.6.5 Structural observations of historic buildings or structures. Structural observations shall be provided by an approved agency for an alteration to the structural system of, or a vertical addition to, an existing building or structure designated as historic under Chapter 14-1000 of The Philadelphia Code. Periodic structural observations shall be provided in accordance with an approved monitoring plan per Section B-3309. Structural observations shall not be required under this Section B-1704.6.5 for either of the following:

1. One- and two-family dwellings.

2. Where no structural support of the existing portions of the building or structure to remain is required for the proposed work as determined by a registered design professional.

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CHAPTER 33
SAFEGUARDS DURING CONSTRUCTION

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SECTION 3307 PROTECTION OF ADJOINING PROPERTY

Add Sections B-3307.2 through [B-3307.8] *B-3307.10* as follows:

B-3307.2 License to enter adjoining property. The responsibility of affording any license to enter adjoining property shall rest upon the owner of the adjoining property involved. It is the responsibility of the person making or causing construction or demolition operations to obtain any necessary license to enter adjoining property from the owner of such property prior to the start of work *impacting or potentially impacting the adjoining property*. If the person who causes the construction, demolition, or excavation work is denied a license to enter by the adjoining property owner, and the building undergoing work is an imminent danger to the adjoining property, as determined by the Department, such duty to preserve and protect the adjacent property shall devolve to the owner of the adjoining property.

[B-3307.2.1 Notification. Where a construction or demolition project will require access to adjoining property, in order to protect the adjoining property or otherwise, written notification shall be provided to the adjoining property owner a minimum of 10 days prior to the commencement of work. Such notification shall describe the nature of work, estimated schedule and duration, details of monitoring to be performed on the adjoining property, protection proposed to be installed on the adjoining property, and contact information for the project.]

* * *

3307.4 Soil or foundation work affecting adjoining property. Whenever soil or foundation work occurs, regardless of the depth of such, the person who performs or causes such work shall, at all times during the course of such work and at his or her own expense, preserve and protect from damage any adjoining structures, including but not limited to footings and foundations.

3307.4.1 Additional safeguards during excavation. The person causing the excavation shall support the vertical and lateral load of the adjoining structure by proper foundations, underpinning, or other equivalent means where the level of the foundation of the adjoining structure is at or above the level of the bottom of the new excavation.

3307.4.2 Preconstruction survey. No excavation work to a depth of more than 5 feet (1524 mm) within 10 feet (3048 mm) of an *adjacent* building shall commence until the person causing an excavation to be made has documented the existing conditions of all adjacent buildings in a preconstruction survey. Preconstruction surveys shall be maintained by the contractor and made available to the Department upon request.

3307.4.2.1 Preconstruction surveys of historic buildings or structures. Where a designated historic building or structure is such an adjacent building, the required preconstruction survey shall be submitted to the building official at time of application for permit and shall, at a minimum, include the following information:

1. Documentation of the existing conditions of all adjacent buildings.

2. Identification of location, extent and dimension of any visible cracks or pronounced deformations or misalignment of the historic building or structure's entire exterior envelope.

3. Photographs of the historic building or structure showing, at a minimum:
a. The elevation as visible from any public right-of-way.

b. Close up photographs of any locations identified in 3307.4.2.1(2).

4. Statement, signed by a representative of the entity performing structural observations in accordance with Section B-1704.6.4, confirming that existing conditions identified in this preconstruction survey will be monitored during all times of excavation activity.

* * *

3307.9 Monitoring. Construction or demolition operations shall be monitored by a licensed special inspector in accordance with Section B-1704.6.4. Operations shall be monitored in accordance with an approved monitoring plan specifying scope, frequency, and acceptable tolerances.

3307.10 Notification. The owner or owner's agent performing or causing construction or demolition operations shall provide written notification to the adjoining property owner a minimum of 10 days prior to the commencement of the following activity:

1. Excavation exceeding a depth of five (5) feet below adjacent grade, excluding digging, trenching, or boring for utilities or geotechnical exploration, that is within ten (10) feet of an adjacent structure.

2. Modification to a fire wall which is used for joint service between two buildings on separate lots, including demolition or underpinning.

3. Excavation, new construction or demolition work occurring within 90 feet of a designated historic building or structure on an abutting lot.

Such notification shall describe the nature of work, estimated schedule and duration, details of monitoring to be performed on the adjoining property, protection proposed to be installed on the adjoining property, and contact information for the project.

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

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

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CHAPTER 9-1000. TRADES

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§ 9-1009. Excavation Contractor License.

(1) Definitions.

(a) Competent Person. An individual who is capable of identifying existing and predictable hazards at the job site; is knowledgeable of policies and practices that affect working conditions which are unsanitary, hazardous or dangerous to employees or the public; and who has authority to take prompt corrective measures to eliminate such hazards and conditions.

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(b) Excavation. A man-made cut, cavity, trench, or depression in the Earth's surface formed by earth removal.

(c) Excavation Contractor. A person or business entity that performs or offers to perform excavation services.

(d) OSHA 30. The 30-hour program designed by the United States Occupational, Safety and Health Administration ("OSHA") under its Outreach Training Program for Construction Industry for additional training of supervisors and workers with some safety responsibilities.

(e) OSHA 3015. The 20-hour program designed by OSHA under its Outreach Training Program for Construction Industry for additional training in the safety and health aspects of excavation, trenching, a soil mechanics.

(f) Serious Violation. An OSHA safety violation classification where OSHA has determined that there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(g) Site Safety Manager. A competent person employed by a licensed Excavation Contractor with OSHA 30 and OSHA 3015 training or an equivalent training program approved by the Department in the past five years to provide significant public safety benefit, appropriate to the position, whose primary responsibility is to ensure safe practices on construction sites.

(2) License and Required Conduct.

(a) No person or business entity shall act as an Excavation Contractor unless that entity possesses a current and valid license issued under this Section.

(.1) No excavation permit shall be issued without identifying the Excavation Contractor licensed pursuant to this Section.

(b) No person or business entity shall act as an Excavation Contractor without a site safety manager with the required qualifications on staff at all times. Required qualifications shall mean the qualifications necessary for the contractor to be licensed to perform such work. The site safety manager may not be concurrently employed by another licensed Excavation Contractor.

(c) An Excavation Contractor shall abide by:

(.1) all regulations issued by the Department of Public Health pursuant to Title 3, Air Management Code regarding the control of dust at demolition sites, including but not limited to:

(.a) dust control during excavation activity;

(.b) the proper storage and removal of materials;

(.c) cleaning dust from surrounding streets and sidewalks; and

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(.d) controlling dust during the transportation of materials.

(.2) the Water Department's Storm Water Erosion and Sediment Control Regulations.

(.3) all other applicable requirements of law.

(3) Requirements for License.

(a) Application Requirements. Applications for an Excavation Contractor's license shall be made on forms to be supplied by the Department. No license or renewal shall be issued until the applicant:

(.1) provides the Department with the information required by Section 9-1004(4);

(.2) provides the Department with proof that the applicant has obtained the insurance and bonding required by this Section; and

(.3) identifies at least one site safety manager employed by the company who will supervise excavation projects for the Excavation Contractor.

(.a) If the Excavation Contractor changes its site safety manager the contractor shall notify the Department within ten days of employment of the new site safety manager and provide any necessary documentation with respect to their required qualifications.

(b) A license issued under this Section shall be valid for one year. The annual fee for the license shall be one hundred three dollars ($103) or such other amount as established by the Department by regulation.

(4) Insurance and Bonding Requirements. All Excavation Contractors licensed under this Section shall at all times maintain, at a minimum, the following types and amounts of insurance and bonding:

(a) Insurance requirements. In addition to the insurance requirements of Section 9-1001(5), the Excavation Contractor shall maintain comprehensive general liability, including products and completed operations, of a minimum limit of liability of $2,000,000 per occurrence.

(b) Bonding requirements.

(.1) A license bond in an amount of $100,000 shall be maintained. The bond shall be issued by a surety company holding a certificate of authority to transact business in Pennsylvania, having a minimum surety underwriting limitation of $1,000,000.

(.2) Proof of bonding shall be submitted on a form approved by the Law Department.

(5) License Suspension and Revocation; Other Remedies.

(a) In addition to the requirements in Section 9-1004(9), the Department may suspend or revoke any license granted under this Section for any of the following reasons:

(.1) determination by OSHA of a serious violation during the work of the contractor;

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(.2) significant violation of a requirement of Chapter 33 (Safeguards During Construction) of Subcode B (The Philadelphia Building Code) of Title 4 of The Philadelphia Code (The Philadelphia Building Construction and Occupancy Code); or

(.3) any significant violation of a provision of this Section, including but not limited to the License and Required Conduct provisions of subsection (2) of this Section.

(b) Action against a license bond concerning a Demolition Contractor's failure to meet the requirements of this Section or an excavation permit may be taken by the Department.

* * *

SECTION 4. This Ordinance shall be effective January 1, 2023.

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