

Legislation Text

File #: 130685, **Version:** 1

Amending Title 4 of The Philadelphia Code, entitled "The Philadelphia Building Construction and Occupancy Code," amending Subcode A, entitled "The Philadelphia Administrative Code," by adding a new Chapter on site safety; amending Title 6 "Health Code," by increasing penalties and requiring notices for asbestos projects; and amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," by adding conditions for site safety monitor licensing; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Subcode A of Title 4 is 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-302 PERMITS

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A-302.10.5 Asbestos inspection report: A permit for any demolition or alteration [which requires the filing of plans] shall not be issued until an asbestos inspection report *including all laboratory sample reports and analyses*, furnished by an independent certified asbestos investigator as defined in Section 6-601 of the Philadelphia Health Code, has been submitted. Submission of an asbestos inspection report is not required for buildings erected pursuant to a building permit issued after December 31, 1980, or any residence with three dwelling units or less.

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SECTION 2 . Chapter 6-600 of Title 6 is amended to read as follows:

TITLE 6. HEALTH CODE

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CHAPTER 6-600. ASBESTOS PROJECTS

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§6-603. Permits and Notification.

In order to ensure that asbestos work is properly performed so as to protect occupants of buildings and private residences and the general public from exposure to asbestos, permits shall be required for all major asbestos projects and notification shall be required prior to the commencement of all minor asbestos projects.

(7) After a permit has been issued, *by the next day the Department shall electronically send notice to the Philadelphia Fire Department Battalion Chief that has jurisdiction over the property of the issuance of an asbestos permit.* [the] The applicant shall notify the Department, in advance, of any changes in the asbestos project not accounted for in the permit application and submit an amended permit application before project completion.

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§6-610. Enforcement.

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(4) Penalties. In addition to any other sanction or remedial order provided herein, any person who either fails to comply with the requirements of this Chapter and regulations adopted hereunder, or fails to obey an order issued by the Department, may be subject to any of the following penalties:

(a) suspension and/or revocation of any permits issued pursuant to the provisions of this Chapter;

(b) imposition of a fine not less than [one hundred fifty (\$150.00)] *five hundred (\$500.00)* dollars nor more than [three hundred (\$300.00)] *one thousand (\$1000.00)* dollars;

(c) suspension or revocation of any licenses issued pursuant to the provisions of this Chapter;

(d) issuance of *a stop work order or an order to cease any asbestos project activity immediately*; or

(e) initiation of legal action or proceedings in a court of competent jurisdiction.

(5) Continued Violations. Each day a violation continues to exist shall constitute a separate violation for which a separate penalty shall be imposed.

(6) Repeat Offenders. Any person who, on more than one occasion, either fails to comply with a provision of this Chapter or regulations adopted hereunder, or fails to obey an order issued by the Department, shall be guilty of a separate offense of Repeat Violation, and for each such Repeat Violation, shall be subject to a fine of not more than [three hundred (300)] *two thousand (\$2000.00)* dollars, or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation,

after the first, shall constitute a separate Repeat Violation offense.

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SECTION 3. Chapter 9-1300 of Title 9 is amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

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CHAPTER 9-1300 INSPECTION BUSINESSES

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Special Inspection Agencies and Special Inspectors

(1) Declaration of Purpose. The purpose of this Section is to provide standards for persons or agencies who perform special inspections on construction and demolition sites as required by the Building Code. The City recognizes that inadequately trained special inspectors can jeopardize public health and safety. Registered special inspection agencies and special inspectors will ensure that contractors comply with applicable industry codes and safety, therefore, the establishment of standards and qualifications for special inspection agencies and special inspectors are necessary to protect the public.

(2) Definitions

(a) Approved Construction Documents. Any and all documents that set forth the location and entire nature and extent of construction work proposed with sufficient clarity and detail to show that the proposed work conforms to the provisions of this code and other applicable laws. Such documents will include but not be limited to shop drawings, specifications, manufacturer's instructions and standards that have been accepted by the design professional of record or such other design professional retained by the owner for this purpose.

(b) Materials. Materials, assemblies, appliances, equipment, devices, systems, products and methods of construction regulated in their use by the Building Code.

(c) Registered Design Professional. A Pennsylvania licensed and registered architect (RA) or a Pennsylvania licensed and registered professional engineer (PE).

(d) Registered Design Professional Of Record. The registered design professional who prepared or supervised the preparation of applicable construction documents filed with the department.

(e) Relevant Experience. Direct participation and practice related to the underlying construction or demolition activities that are the subject of the special inspection where such participation has led to accumulation of knowledge and skill required for the proper execution of such inspection.

(f) Special Inspection. Inspection of selected materials, equipment, installation, methods of construction, fabrication, erection or placement of components and connections, to ensure compliance with approved construction documents and referenced standards as required by Chapter 17 of the Building Code or elsewhere in the code or its referenced standards.

(g) Special Inspection Agency. An approved inspection agency employing one (1) or more persons who are special inspectors and that has met all requirements of this Section.

(h) Special Inspector. An individual employed by a special inspection agency, who has the required qualifications set forth in this Section to perform or witness particular special inspections required by the code or by regulation, including but not limited to a qualified registered design professional.

(i) Supervise/Supervision. The oversight and responsible control by a registered design professional having the necessary qualifications and relevant experience to perform responsibilities associated with the special inspection. Such supervision shall include ensuring training and/or education necessary to qualify the special inspector for his or her duties, including continued training and education necessary to keep pace with developing technology.

(j) Work. The construction or demolition activity including techniques, tests, materials and equipment that is subject to special inspection.

(3) Registration of Special Inspection Agencies.

(a) General. All agencies performing special inspections must be registered with the department as a special inspection agency for each of the following special inspection categories that the agency intends to perform. Individuals registered must hold and maintain the qualifications associated with each category.

(.1) Qualifications of Primary Inspector or Inspection Supervisor: Professional Engineer (Civil/Structural) and 1 year relevant experience .

(.2) Supplemental Inspector - under direct supervision of Inspection Supervisor: Must have completed a 30-hour program designed by the United States Occupational, Safety and Health Administration ("OSHA") under its Outreach Training Program for General Industry for additional training of supervisors and workers with some safety responsibilities and 3 years relevant experience

(b) Form and Manner of Registration. An application for registration must be submitted in a form and manner determined by the Department and must provide such information as the Department may require.

(c) Qualifications. All special inspection agencies must ensure that the special inspectors employed by the agency meet the qualification requirements set forth in this Section and perform special inspections only within the area of expertise for which such special inspectors are qualified.

(d) Insurance. All special inspection agencies must have the following insurance coverage:

(.1) Professional liability/errors and omissions insurance policy for the minimum amount of five hundred thousand dollars (\$500,000.00), claim-based, for the term of the registration.

(.2) Insurance required by the provisions of the Pennsylvania Workers' Compensation laws.

(e) Agency Structure. A special inspection agency must have one primary and up to four (4) alternative full-time directors who are registered design professionals in charge and all special inspections must be performed under their direct supervision. The directors must not be retained by any other agency that provides special inspection or testing services. The directors must possess relevant experience in the inspection and testing industry and hold management positions in the agency.

(f) Audits. The operations of special inspectors and special inspection agencies will be subject to audit

by the department at any time. Audits may involve the examination of applications for registration as well as the performance and documentation of special inspections.

(g) *Registration Term.* The term of a registration is three (3) years.

(h) *Renewal.* Registration renewal may be precluded where there has been a finding by the Department that any special inspection or test conducted by the special inspector or special inspection agency has not been performed in accordance with the requirements set forth in the code, applicable reference standards or the rules of the department, or where there has been a finding by the Department of fraud or misrepresentation on any document or report submitted to the department by the special inspector or special inspection agency. No special inspector or special inspection agency will perform an inspection or test with an expired or lapsed registration.

(4) *Duties.*

(a) *Availability and Compliance.* A special inspector and/or special inspection agency shall have responsibilities as set forth in Chapter 17 of the Building Code and elsewhere in the Codes where special inspections are required.

(b) *Obligation to Avoid Conflict of Interest.* A special inspector and/or a special inspection agency must not engage in any activities that may conflict with their objective judgment and integrity, including but not limited to having a financial and/or other interest in the construction, installation, manufacture or maintenance of structures or components that they inspect. It is not, in and of itself, a conflict of interest for a registered design professional of record to perform a special inspection on the project he or she designed.

(c) *Approved Construction Documents.* The special inspector and/or special inspection agency shall:

(.1) *Examine all approved construction documents that relate to the work that is the subject of the special inspections.*

(.2) *Confirm that the documents are sufficient to enable the proper performance of the special inspection.*

(.3) *Confirm that the documents are acceptable to the registered design professional of record or another design professional who prepared the documents for the construction of the job. Acceptance shall be demonstrated in writing by the design professional on the documents.*

(.4) *Confirm that the work that is the subject of the special inspection is in compliance with all relevant approved construction documents and with Chapter 17 of the Building Code and the remainder of Title 4.*

(d) *Reporting.* The special inspection agency shall report any discrepancies noted during the inspection to the contractor and when applicable to the superintendent of construction, as well as to the site safety coordinator or site safety manager, for correction. If the discrepancies are not corrected, the discrepancies shall be brought to the attention of the owner, and the registered design professional of record prior to the completion of that phase of the work. The special inspector/special inspection agency shall

immediately report conditions noted as hazardous to life, safety or health, to the attention of the Department.

(e) Documentation.

(.1) The supervisor shall review special inspection progress reports and final reports for conformance with the approved plans, specifications and workmanship provisions of Chapter 17 of the Building Code and the remainder of Title 4. Such supervision and control shall be evidenced by the supervisor's signature and seal upon any required statements, applications and/or reports.

(.2) The principal of the special inspection agency shall file with the department within ten (10) days of satisfactory completion of any special inspection, notice of such completion on the forms and in the manner required by the department.

(.3) A special inspection agency shall maintain records of special inspections on a job-by-job basis for at least seven (7) years and shall make such records available to the department upon request. Such records shall include field logs, test results, laboratory reports, notes, noted deficiencies and dates of cures of such deficiencies, photographs and such other information as may be appropriate to establish the sufficiency of the special inspection.

(f) Obligation to Cooperate with Inquiries. All special inspectors and/or special inspection agencies shall cooperate in any investigation by the department, or other city or law enforcement agency, into the activities at any job site or fabricating/manufacturing facility for which they have been designated a special inspector or special inspection agency and shall provide prompt, accurate and complete responses to reasonable inquiries by the department and other appropriate agencies about the conduct of such business.

(5) Disciplinary Actions.

(a) Suspension or revocation of registration and refusal to accept filings. The Department may suspend or revoke a special inspection agency registration, with or without the imposition of penalties, for violation of any provision of the code. The Department may refuse to accept any application or other document submitted pursuant to or in satisfaction of any requirement of this Section or of chapter 17 of the Building Code or any regulation of any agency that bears the signature of any special inspector who has been found to have knowingly or negligently made a false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this chapter, the code or any regulation.

(b) Stop work and Suspension of Permits. Upon any suspension or revocation of registration, unless replaced by another registered special inspector and/or special inspection agency within five (5) business days of such suspension or revocation, all construction or demolition projects on which the special inspector and/or special inspection agency whose registration was suspended or revoked is designated, shall be stopped and the permits shall be suspended until such time as a duly registered special inspector and/or special inspection agency is designated to re-inspect such tests or such inspections performed by the disciplined special inspection agency.

(6) Penalties. Notwithstanding any other provision of this Title, any person who violates any provision of this Section or any regulation adopted pursuant to this Section shall have committed a Class II offense and be subject to the fines set forth in Subsection 1-109(2) of The Philadelphia Code. The penalties set forth herein are in addition to any other penalty that may be imposed under any other law.

SECTION 4. This Ordinance shall take effect as follows:

1. Sections 1 and 3 shall take effect within 18 months of enactment.
2. The remainder of this Ordinance shall become effective immediately.

Explanation:

Italics indicate new matter.

[Brackets] indicate matter deleted.