

Proposed Amendments to Bill No. 090568

Proposed deletions to the Bill in ~~Strikethrough~~
Proposed Additions to the Bill in **Bold**

AN ORDINANCE

Amending Title 4 of The Philadelphia Code, entitled “The Philadelphia Building Construction and Occupancy Code,” by amending Subcode “PM” (The Philadelphia Property Maintenance Code), by requiring the periodic inspection of the exterior walls and appurtenances of certain buildings, the filing of reports of such inspections, and the repair and maintenance of certain conditions discovered during such inspections, 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

* * *

CHAPTER 4-200.0. TEXT OF SUBCODES

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SUBCODE “A”
(THE PHILADELPHIA ADMINISTRATIVE CODE)

* * *

A-601.3 Fines for Class III offenses: Notwithstanding subsection A-601.1, any person who violates any of the following provisions shall have committed a Class III offense and shall be subject to the fines set forth in subsection 1-109(3) of The Philadelphia Code:

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16. PM-304.10 (Periodic Inspection of Exterior Walls and Appurtenances of Buildings)

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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-304.0 EXTERIOR STRUCTURE

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PM-304.10 Periodic Inspection of Exterior Walls and Appurtenances of Buildings.

PM-304.10.1. Definitions. The following definitions shall apply to this subsection PM-304.10:

*Affected Buildings. All buildings ~~at or greater than 75 feet in height or classified as a high rise building~~ **six or more stories in height, all buildings with any appurtenance in excess of 60 feet in height, and any building, other than one- or two-family dwellings, greater than two stories, located in the following areas:***

[RESERVED insert areas boundaries or street frontages].

*Professional. A ~~Registered Architect or Professional Structural Engineer licensed in the Commonwealth of Pennsylvania.~~ **A Commonwealth of Pennsylvania licensed Professional Engineer experienced in the practice of structural engineering or a licensed Registered Architect knowledgeable in the design, construction, and inspection of building facades, and pre-qualified by the Philadelphia Department of Licenses & Inspection.***

*Safe. A condition of a building wall, any appurtenances thereto or any part thereof ~~not requiring repair of or maintenance to sustain the structural integrity of the exterior of the building and that will not become unsafe during the next five years.~~ **that exhibits neither an “unsafe condition” nor a “safe with repair and maintenance program condition” at the time of inspection.***

*Safe with a repair and maintenance program. A condition of a building wall, any appurtenances thereto or any part thereof that is **considered by the Professional not to be in an “unsafe condition”** safe at the time of inspection, but requires repairs ~~of or maintenance prior to the subsequent inspection unless otherwise indicated by the professional during the next five years in order to prevent its deterioration during that five year period into an unsafe condition.~~ **within a time period designated by the professional in order to prevent its the deterioration of the building or building element into an “unsafe condition”.** *The building tagged with the**

Comment [1]:
How can parapets and appurtenances be included on buildings shorter than stories or 60 ft.?

Comment [2]:
City to define. Presumably high exposure areas of downtown/historic areas are to be included.

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Comment [3]:
The definitions for safe, unsafe and safe with a repair and maintenance program have been modified to more closely represent the Chicago standard. In essence safe is the absence of observed unsafe conditions avoiding blanket statements pertaining to safety that cannot be made without a much more detailed inspection protocol (i.e. detailed hands-on review of 100% of walls, substantial probing, etc.)

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Comment [4]:
The term safe is like a statement of “guarantee” and is uninsurable by E&O policies

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designation “Safe with a repair and maintenance program” must be inspected by a Professional on a bi-annual basis until attaining the “Safe” condition rating.

Comment [j5]: Should there be a time period limit set that a building remain in the repair and maintenance program?

Unsafe condition. A condition of a building wall, any appurtenances thereto or part thereof that **has no reliable means of structural support, and that** is dangerous to persons or property and requires prompt remedial action.

PM-304.10.2. Inspections Required.

PM-304.10.2.1. The owner of each Affected Building shall be responsible for retaining a Professional to conduct periodic inspections of ~~all parts of all~~ exterior walls and any appurtenances thereto, except for those parts of any exterior wall which are less than twelve inches from the exterior wall of an adjacent building, and to prepare and file a report on such inspection as required by this Section.

Comment [j6]: In the event that the adjacent building is demolished, inspection of the former adjacent wall should occur sooner than at the 5 year intervals.

PM-304.10.2.2. For Affected Buildings, the first inspection required by this Section shall be conducted, ~~and the required report shall be filed as shown in the following schedule:~~ by January 1, 2011.

Comment [7]: “If the exterior wall is less than twelve inches from the exterior wall of an adjacent building but due to differential building heights greater than 60 ft. or at locations such as habitable roof areas, skylights, etc. on lower adjacent roofs, the exterior wall of the Affected Building shall be subject to inspection.”

Construction Date	Report to be completed between:
Prior to and including 1950	July 1, 2010 – June 30, 2011
1951 - 1970	July 1, 2011 – June 30, 2012
1971 - 1980	July 1, 2012 – June 30, 2013
1981 -1990	July 1, 2013 – June 30, 2014
1991 - 2005	July 1, 2014 – June 30, 2015

For all other buildings, the first inspection shall be conducted, and required report shall be filed, within ~~five~~ ten years after the certificate of occupancy was issued.

PM-304.10.2.3. Following the Initial Inspection, an Affected Building shall be re-inspected, and the required report shall be filed, **on a five-year cycle based on the original schedule** ~~at least once every five years.~~

PM-304.10.2.4. If all facades of an Affected Building have been substantially restored during the five years immediately preceding the date of any required inspection, the owner may apply to the Department for a waiver of the required inspection. The owner shall submit with such application such information as the Department determines is necessary to enable it to evaluate the request. The Department shall grant the waiver if it determines that the recent facade restoration obviates the need for an inspection until the next inspection cycle.

PM-304.10.3. Inspection procedures.

PM-304.10.3.1. Before inspecting an Affected Building, the retained Professional shall review previous reports, inspections, and evidence of repairs made in the past 5 year period, including confirmation that all areas previously determined to require remediation in less than 5 years, (as noted on the original report) have been addressed of previous inspections of the Affected Building on file with the Department.

PM-304.10.3.2. The inspection shall be conducted and witnessed by or under the supervision of the Professional, and performed to the best of his/her knowledge and belief. The Professional shall determine the extent of the inspection required, based upon the known history of the building, the nature of the materials used, and the conditions observed. The Professional shall determine methods employed in the inspection, but need not be physically present at the location where the inspection is made. Under the Professional's supervision, technicians, tradesmen, contractors, and engineers in training, who need not be in the employ of the Professional, but not an employee of the building owner, may be delegated selected inspection tasks.

PM-304.10.3.2.1 Recognizing the limitations on detecting concealed internal wall distress, the physical inspection may not find all unsafe and imminently hazardous conditions in the wall that are not visible from the exterior, however, the professional shall certify in the report that the physical inspection was performed in accordance with the exterior wall ordinance and rules and regulations, and the appropriate professional standard of care.

PM-304.10.3.3. ~~The methods used to inspect a building shall permit a complete inspection of same. [The use of a scaffold or other observation platform is preferred, but the Professional may use other methods of inspection~~ **The method used to access a building shall permit a physical hands-on inspection of the same.** ~~inspect a building shall permit a complete inspection of same. [The use of a scaffold or other observation platform is preferred, but the Professional may use other methods of inspection~~ **access as deemed appropriate, provided that except that a steeple jack may not be used and except that a physical, hands-on inspection from a scaffold or other observation platform is performed required for a representative sample of the exterior wall. The Professional shall determine what constitutes a representative sample, but not less than except that it must include at least one physical inspection along a path from grade to top of an exterior wall on each street front using at least one scaffold drop or other observation platform configuration. comprising of twenty-five percent of the elevation.**

PM-304.10.3.4. The Professional shall employ the appropriate professional standard of care to ~~detect splitting or fracturing of terra cotta on buildings, cracking of masonry and brickwork in brick faced buildings, loosening of metal anchors and supports, water entry movement of lintel angles, and similar conditions, and shall ascertain the cause of these and such other conditions detected.~~ **identify distressed conditions such as delaminating, separating, splitting, or fracturing of material or components as well as movement or displacement indicative of unsound facade materials or loss of structural support.**

Comment [8]:
Add limitation statement on scope of inspection. Copied from Chicago ASTM standard has a similar note.

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Comment [9]:
In anycase, the word "Complete" needs to be removed since it defines an unattainable goal. To be complete will require hands-on access to 100% of the facades with numerous probes and will render the inspection extremely costly.

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PM-304.10.3.4.1 If distressed conditions are identified, ~~the Professional shall order any special or other additional inspections, probes and/or tests that may be required to determine the significance and probable cause of the observed distress.~~

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PM-304.10.3.5. During the course of the inspection, photographs shall be taken and/or sketches made to properly document the location of all conditions observed that are either unsafe or safe with a repair and maintenance program.

PM-304.10.3.6. Upon discovery of any unsafe condition the Professional shall immediately notify the Department and the owner of the building ~~by letter or fax~~ ***in writing.***

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PM-304.10.4. Report requirements.

PM-304.10.4.1. The Professional shall submit to ~~the Department and to the owner of the building~~ a written report as to the result of each inspection, ~~certifying stating that the inspection was performed and completed in accordance with this Code, and detailing all conditions not classified as safe.~~ ***Within 12 hours of the discovery of an unsafe condition, the Professional shall report the condition to the Department. The report shall be submitted in writing and in an electronic format determined by the Department. If the Professional deems a building unsafe, then the full report shall be filed within 24 hours of completion of the report with the Department in writing and in an electronic format determined by the Department. The owner or its agent shall retain all written reports submitted pursuant to this Section and keep them readily available for inspection by the Department.***

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PM-304.10.4.2. The report shall ***include, on the front page, the name and license number of the Professional and shall be signed, sealed and dated by the Professional in accordance with the professional registration laws of the Commonwealth of Pennsylvania, and shall include:***

1. The address and the location from the nearest ~~intersection.~~
2. The name, mailing address, and telephone number of the owner of the building and of the owner's agent or person in charge, possession or control of the building, if any.
3. A description of the building, including number of stories, height, plan dimensions, usage, ~~and~~ age and type of exterior wall construction, ***and water management system.***
4. A brief history of any settlements, repairs, revisions to exterior enclosures, if available.
5. The date of the start and completion of the inspection, a detailed description of the procedures used in making the inspection, and the extent and location of all physical inspections performed.

Comment [J10]: Do we need the location from the nearest intersection if we give the address?

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Comment [11]: Important that inspector understand and note the intended water management system of the wall assembly to be able to comment on watertight integrity of walls required in reporting section. i.e. need to know it was supposed to work before you can comment on any problems with how it is working.

6. A report of all conditions including but not limited to significant deterioration and movement observed as well as a statement concerning the apparent watertightness of the exterior surfaces, and the deleterious effect of exterior appurtenances, including exterior fixtures, flagpoles, signs, parapets, copings, guard rails, window frames (including hardware and lights), window guards, window air conditioners, flower boxes, and similar items. The report shall classify each such condition as safe, unsafe, or safe with a repair and maintenance program.

Comment [12]:
"that could result in a structural problem"

7. The causes of the reported conditions.

Comment [13]:
Very positive statement. How about proximate or probable causes?

8. The status of the exterior maintenance.

Comment [14]: The status of exterior maintenance may be difficult to gauge or ascertain based upon a single survey visit.

9. For any conditions listed in the previously filed report (if any), whether such conditions have been repaired and/or maintained as recommended in that report.

10. Recommendations for repairs or maintenance, if appropriate, including the recommended time frame for the repairs or maintenance to be performed.

11. The classification of the building according to the following scheme:

a. "Unsafe," if there is at least one unsafe condition.

b. "Safe with a repair and maintenance program," if there is a condition that is "safe with a repair and maintenance program" and there are no unsafe conditions. ~~However, a building shall not be classified as "safe with a repair and maintenance program" if the report includes any "safe with a repair and maintenance program" condition that was also listed on the previously filed report for the building; in that case, the building shall be classified as "Unsafe."~~

c. "Safe," in all cases other than (a) or (b).

12. Photographs and/or sketches documenting the locations of any conditions that are either unsafe or safe with a repair and maintenance program.

13. A statement by the Professional indicating which repairs and/or maintenance require the obtaining of work permits prior to their commencement.

Comment [15]: The Professional should not be stipulating what work requires permits and what work does not.

14. A statement signed by the owner or agent of the building, acknowledging receipt of a copy of the report and acknowledging all required repairs and/or maintenance (if any) and the recommended time frame for performing such repairs and/or maintenance.

15. The Professional's seal and signature.

16. Such other matters as the Department may by regulation require.

PM-304.10.5. Unsafe conditions.

PM-304.10.5.1. If the required report includes an unsafe condition, then the owner of the building shall within ~~(12) twelve~~ **twenty-four (24) hours of being notified of the condition by the Professional** ~~commence such repairs or reinforcements and any other appropriate measures, such as take any actions necessary to protect public safety, such as erecting sidewalk sheds, fences, and/or safety netting, as may be required to secure the public safety and to make the building's walls and/or appurtenances thereto conform to all the provisions of this Code.~~

Comment [J16]: Where and when does the Professional's liability end in regards to the protection of the public? If the building Owner does not proceed? Wwho is responsible for designing the protection and certifying the adequacy of the temporary protection work?

PM-304.10.5.2. Work to ~~correct~~ **address** the unsafe conditions shall begin (10) days from the filing of the report, ~~and work shall continue without interruption until the unsafe condition has been corrected~~ **addressed, unless there has been an unforeseen delay (e.g. weather, labor strike).** ~~Work shall be performed under the supervision of the Professional.~~ Within two weeks after the unsafe condition has been corrected, the Professional shall reinspect the building and file with the Department a detailed amended report stating the condition of the building.

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PM-304.10.5.3. The Department may grant an extension of time of up to ninety (90) days to ~~complete~~ **begin complete** the repairs required to ~~remove~~ **address** an unsafe condition, after receipt and review of an initial extension application submitted by the Professional which includes:

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1. Proof that the premises have been made safe by means of a shed, fence, or other appropriate measures.
2. A copy of the contract indicating the scope of work necessary to remedy the unsafe condition(s).
3. The Professional's estimate of the length of time required for repairs, and a notarized affidavit by the owner of the building **or its agent** that work will be completed within such time.

PM-304.10.5.4. A further extension of time will be considered **by the Department** only upon receipt and review of a further extension application which details that one of the following is met:

1. The work has been substantially completed, but there has been an unforeseen delay (e.g. weather, labor strike).
2. Unforeseen circumstances (e.g., fire, building collapse).
3. The nature of hazard requires more than 90 days to remove (e.g., new wall to be built).

PM-304.10.6. Conditions that are Safe with a Repair and Maintenance Program.

PM-304.10.6.1. The owner of the building is responsible for ensuring that ~~all~~ the conditions described in the report as “safe with a repair and maintenance program” are repaired and ~~all~~ the actions recommended by the Professional are completed within the time frame recommended by the Professional, and, in no circumstances may such conditions be left to deteriorate into unsafe condition before the next inspection.