DEPARTMENT OF LICENSES AND INSPECTIONS
REGULATIONS CONCERNING CHIMNEY AND VENT CLEARANCE ON PROPERTIES ADJOINING CONSTRUCTION SITES

The following regulations are hereby adopted under Title 4, Section B-3307 of The Philadelphia Code ("Protection Of Adjoining Property").

TITLE 4. PHILADELPHIA BUILDING
CONSTRUCTION AND OCCUPANCY CODE

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SUB-CODE B (THE PHILADELPHIA BUILDING CODE)

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CHAPTER 33
SAFEGUARDS DURING CONSTRUCTION

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§ B- 3307. PROTECTION OF ADJOINING PROPERTY

B- 3307.1 Protection Required. Adjoining public and private property shall be protected from damage during construction, remodeling, and demolition work.

Regulation:

B-3307.1.1 (R)

(1) Where a newly constructed or modified building extends above the roofline of an adjacent building on an adjoining lot and the chimney or vent of the adjacent building is located within 10 feet of the newly constructed or modified building, the person causing construction must take reasonable steps to ensure that the chimney or vent on the adjoining building is extended or offset to satisfy clearance and termination requirements set forth in the Philadelphia Building Construction and Occupancy Code.

(a) A person causing construction will be deemed to have taken reasonable steps, within the meaning of this Paragraph if:

(i) The chimney or vent on the adjacent building is extended or offset to satisfy applicable clearance and terminations requirements; OR

(ii) The person causing construction establishes that they have exercised due diligence to secure the adjacent property owner's approval and the adjacent property owner has not responded to or has rejected a notice of work and proposal to mitigate violations associated with the chimney or vent clearance and termination. The person causing construction must demonstrate fulfillment of their due diligence obligation by submitting the following documentation to the Department:

(.1) Prior to permit issuance, proof of an initial written notice, in a form established by the Department, delivered to the adjacent property owner at the address registered with the City of Philadelphia Office of Property Assessment, at least 60 days prior to the commencement of work on the newly constructed or modified building. Such notice must include all of the following information:

(.a) A description of the scope of work to be performed on the newly constructed or modified building, including the impact the construction will have on the adjacent property's compliance with applicable chimney or vent clearance and termination requirements;

(.b) An offer to secure necessary permits and fund or perform the necessary work to bring the adjacent property into compliance with applicable chimney or vent clearance and termination requirements; and

(.c) A statement that if the adjacent owner declines to accept the offer or otherwise fails to respond, they may be deemed responsible by the City for their building's violation of applicable chimney or vent clearance and termination requirements pursuant to Regulation B-3307.1.2 (R).

AND

(.2) Prior to extending the newly erected or modified building above the roofline of the adjacent building, one of the following:

(.a) Proof in writing that the adjacent property owner has expressly rejected a request to extend the chimney; OR

(.b)Proof that a final notice was delivered to the adjacent property owner at the address registered with the City of Philadelphia Office of Property Assessment no less than 10 days prior to the start of work, including the same information as the initial notice and a statement indicating that this is the final notice, and an affidavit confirming that the adjacent property owner failed to respond to or otherwise rejected the notices.

(2) Exceptions

B-3307.1.1(1) shall not apply under either of the following conditions:

(a) The chimney or vent is no longer connected to a fireplace or other equipment requiring ventilation, as certified by the adjoining owner or their representative. However, if an adjoining owner is unaware whether the chimney or vent is connected to a fireplace or other equipment and grants permission to inspect the premises, the person causing construction must obtain a written report by a contractor or design professional licensed in the Commonwealth of Pennsylvania confirming that the chimney or vent is no longer connected to a fireplace or other equipment requiring ventilation.
OR

(b) A registered architect or professional engineer licensed by the Commonwealth of Pennsylvania provides a written report confirming that the chimney or vent located within 10 feet of the newly constructed or extended building is compliant with the applicable provisions of the Philadelphia Building Construction and Occupancy Code. The report must be filed with the permit application for the building construction or modification.

(3) This regulation does not alter the requirements for a preconstruction survey under B-3307.9 or notification under B-3307.11.

B-3307.1.2 (R)
In the event that the person causing construction demonstrates to the Department's satisfaction that the adjacent property owner has not responded to or has rejected a notice of work despite the due diligence of the person causing construction, as set forth in Paragraph 1(a)(ii), the adjacent property owner shall be responsible to ensure that the operation of existing equipment is compliant with the Philadelphia Building Construction and Occupancy Code and the person causing construction shall be released of such responsibility.

B-3307.1.3 (R)
The correction of any deficiencies on an existing chimney, vent, or equipment which existed prior to the chimney or vent extension or offset required under Section B-3307.1.1(R) is the responsibility of the adjacent property owner.

The chimney or vent must be extended or modified, unless doing so prior to correcting the pre-existing chimney or vent deficiencies would create a hazard, would worsen or give rise to new deficiencies under the Philadelphia Building Construction and Occupancy Code, or is otherwise excused pursuant to B-3307.1.1 (R).

If a Professional Engineer licensed by the Commonwealth of Pennsylvania determines in writing that the chimney or vent alteration on an adjacent property cannot be completed without creating a hazard or worsening the condition of the chimney or vent due to the pre-existing deficiency, it shall be the responsibility of the adjacent property owner to ensure that the pre-existing condition is corrected within sixty (60) days of notice or by a later date agreed to in writing by the person causing construction. If the adjacent owner rejects or fails to respond to notice of required correction consistent with the requirements of Section B-3307.1.1(R), the adjacent property

owner shall be responsible to ensure that the operation of existing chimney equipment is compliant with the Philadelphia Building Construction and Occupancy Code and the person causing construction shall be released of such responsibility.

B-3307.1.4 (R)
A separate mechanical permit shall be required for alterations to a chimney or vent on an adjoining property and shall be authorized by the adjoining property owner, in accordance with the requirements of Chapter 3 of the Philadelphia Administrative Code.

B-3307.1.5 (R)
Proof of compliance with B-3307.1.1(R) must be filed with the Department before the new or modified building may be erected or extended above the roofline of the adjacent building.

A copy of the Certificate of Approval for a mechanical permit required under B-3307.1.4 (R) must be provided before a final inspection of the newly constructed or extended building may be requested.