

Ordinance No.: 1,440
Adopted: 5/17/10
Effective: 6/6/10

ORDINANCE NO. 6-10

**AN ORDINANCE TO ADOPT CHAPTER 165, REFUSE CONTAINERS
AND DUMPSTERS, OF THE CODE OF THE BOROUGH OF LINCOLN
PARK, COUNTY OF MORRIS, STATE OF NEW JERSEY**

WHEREAS, pursuant to N.J.S.A.40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Tier A Municipal Stormwater General Permit (Tier A Permit) for discharge to surface water and groundwater is one of four New Jersey Pollutant Discharge Elimination System (NJPDDES) general permits that are part of the Municipal Stormwater Regulation Program established by the New Jersey Departmental of Environmental Protection (DEP); and

WHEREAS, the Borough of Lincoln Park ("Borough") received authorization under the Tier A Permit to discharge stormwater from municipal separate storm sewers in 2004; and

WHEREAS, on March 1, 2009, the DEP renewed the Tier A Permit for an additional five year period and amended the Tier A Permit to refine aspects of the Tier A Permit to better protect water quality and to assist municipalities in complying with the conditions of the Tier A Permit; and

WHEREAS, the amendments to the Tier A Permit require the Borough of Lincoln Park have fully implemented a refuse container and dumpster ordinance consistent with the model ordinance provided by the DEP; and

WHEREAS, the Borough of Lincoln Park desires to adopt Chapter 165, Refuse Container and Dumpsters, of the Code of the Borough of Lincoln Park, County of Morris, State of New Jersey to be consistent with the model ordinance provided by the DEP and to require dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times to prevent discharge of liquids, semi-liquids or solids from the refuse containers and dumpsters;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey as follows:

SECTION ONE. Chapter 165, Refuse Containers and Dumpsters, of the Code of the Borough of Lincoln Park, County of Morris, State of New Jersey is hereby adopted to read as follows:

§ 165-1. Purpose.

An ordinance requiring dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the **Borough of Lincoln Park** and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 165-2. Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4) - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by Borough of Lincoln Park or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.
- b. Person - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Refuse container - any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.
- d. Stormwater - means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

- e. Waters of the State - means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 165-3. Prohibited Conduct.

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Lincoln Park.

§ 165-4. Exceptions to Prohibition.

- a. Permitted temporary demolition containers;
- b. Litter receptacles (other than dumpsters or other bulk containers);
- c. Individual homeowner trash and recycling containers;
- d. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit; and
- e. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).

§ 165-5. Enforcement.

This ordinance shall be enforced by the Police Department and/or Zoning Officer of the Borough of Lincoln Park.

§ 165-6. Penalties.

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to the fines and penalties set forth in Article III, Section 1.15 of this Code (General Penalty), in the discretion of the Judge imposing the same.

SECTION TWO. All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

Ordinance 1,440 continued

SECTION THREE. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION FOUR. This Ordinance shall take effect as provided by law.

ATTEST:

Annette Maida-Smith, R.M.C. Borough Clerk Louis J. Pepe, Council President

INTRODUCED:	April 19, 2010
PUBLISHED IN <u>DAILY RECORD</u> :	April 25, 2010
PUBLIC HEARING AND ADOPTION:	May 17, 2010
PUBLISHED IN <u>DAILY RECORD</u> :	May 23, 2010
EFFECTIVE DATE:	June 6, 2010

APPROVED: _____ Mayor
 David A. Runfeldt