

¹CHAPTER 159

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¹ New Chapter Added by Ordinance 1,233 Adopted on July 19, 1999

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ARTICLE I

ADMINISTRATION AND ENFORCEMENT

159-1.1 TITLE

This Chapter shall be known as the “**Property Maintenance Code For All Residential Structures and properties of the Borough of Lincoln Park**” and is herein referred to as the “**Property Maintenance Code For Residential Premises**”, “**Chapter 159**”, or “**this code**”.

159-1.2 PURPOSE

The purpose of this Chapter is to protect the public health, safety and welfare in buildings and on the premises as hereinafter provided by:

- (1) Establishing minimum standards for basic equipment and facilities for light, ventilation, space heating and sanitation; for safety from fire; for space; use and location; for safe and sanitary maintenance; and for cooking equipment in all structures now in existence. -15903-

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- (2) Fixing the responsibilities of owners, operators and occupants of all structures.
- (3) Providing for administration, enforcement and penalties.

159-1.3 APPLICABILITY

The provisions of this Chapter shall apply to all residential structures and premises which are now or may become in the future substandard with respect to structure, premises, protection against fire hazard, equipment or maintenance, inadequate provisions for light and air, lack of proper heating, unsanitary conditions, overcrowding or other conditions which may be deemed to constitute a menace to the safety, health or welfare of their occupants, except as provided in **159-1.8**. The existence of such conditions, factors or characteristics adversely affects public safety, health and welfare and leads to the continuation, extension and aggravation of urban blight. Adequate protection of the public, therefore, requires the establishment and enforcement of these minimum standards.

159-1.4 COMPLIANCE REQUIRED

Every portion of a building or premises used or intended to be used for residential purposes shall comply with the provisions of this Chapter, irrespective of when such building shall have been constructed, altered or repaired, except as hereinafter provided.

159-1.5 APPLICATION OF UNIFORM CONSTRUCTION CODES

Any alterations to buildings or change of use therein required or caused directly or indirectly by the enforcement of this Chapter shall be done in accordance with applicable sections of the Uniform Construction Codes.

159-1.6 APPLICATION OF ZONING PROVISIONS

Nothing in this Chapter shall permit the establishment or conversion of a multifamily dwelling, in any zone except, where permitted by and in accordance with, the Zoning Ordinance (Chapter 28), nor the continuation of any such non-conforming use in any zone, except as provided therein.

159-1.7 MORE STRINGENT PROVISIONS TO PREVAIL

Except as provided in **159-1.8**, in any case where a provision of this Chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health Ordinance or Code of this municipality, existing on the effective date of this Chapter, the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail.

159-1.8 EXISTING BUILDINGS

This Chapter establishes minimum requirements for the initial and continued occupancy of all buildings and structures and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this Chapter. -15904-

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159-1.9 EXISTING REMEDIES

Nothing in this Chapter shall be deemed to abolish or impair existing remedies of the municipality or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe, or unsanitary.

159-1.10 ENFORCEMENT OFFICER DESIGNATED

It shall be the duty and responsibility of the Director of the Department of Health, or his designee, to enforce the provisions of this Chapter as herein provided.

159-1.11 COORDINATION OF ENFORCEMENT

Inspection of premises and the issuing of orders in connection therewith under the provisions of this Chapter shall be the exclusive responsibility of the Director of the Department of Health or his designee ("**Enforcement Official**"). Whenever, if in the opinion of the Enforcement Official, it is necessary or desirable to have inspections of any condition by any other department, he shall arrange for this to be done in such manner that the owners or occupants of buildings shall not be subjected to visits by numerous inspectors nor to multiple or conflicting orders. No order(s) for correction of any violation(s) under this Chapter shall be issued without the approval of the Enforcement Official.

159-1.12 ADMINISTRATIVE LIABILITY

Except as may otherwise be provided by statute or other local law or Ordinance, no officer, agent or employee of the municipality charged with the enforcement of this Chapter shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. No person who institutes or assists in the prosecution of a criminal proceeding under this Chapter shall be liable to damages.

159-1.13 INSPECTIONS; RIGHT OF ENTRY; INTERFERENCE

- A. The Enforcement Official shall make or cause to be made inspections to determine the conditions of all structures and premises in order to safeguard the safety, health and welfare of the public under the provisions of this Chapter. The Enforcement Official is authorized to enter any structure or premises at any reasonable time for the purpose of performing his duties under this Chapter within 24 hours of receipt of the notice. The owner, occupant or operator of every structure or premises or the person in charge thereof shall give the Enforcement Official free access thereto and to all parts thereof and to the premises on which it is located at all reasonable times for the purpose of such inspection, examination and survey.
- B. It shall be unlawful for any person to refuse entry to or to impose an inspector or Officer authorized under this Chapter in the performance of his duties, and every such inspector or officer shall have the right to enter, examine and survey all premises, grounds and structures and every part thereof at all reasonable times upon display of proper identification.

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- C. If any owner, occupant or other person in charge of a structure subject to the provisions of this Chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this Chapter is sought, the Enforcement Official may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.

159-1.14 ACCESS BY OWNER OR OPERATOR

Every occupant of a structure or premises shall give the owner or operator thereof or his agent or employee access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this Chapter.

159-1.15 NOTICE OF VIOLATION; SERVICE

Notice of violation shall be served upon the owner of record or his designated agent, provided that such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner or his designated agent personally or, if not found, by leaving a copy thereof at their usual place of abode with a person of eighteen (18) years of age or older, or by sending a copy thereof by certified mail to their last known address, or, if returned by postal authorities, by posting a copy thereof in a conspicuous place in or about the structure affected by the notice.

159-1.16 CONTENTS OF NOTICE OF VIOLATION

Whenever the Enforcement Official determines that there has been or is a violation, or there are reasonable grounds to believe that there has been or is a violation of any provision of this Chapter, he shall give notice of such violation or alleged violation to the owner, his designated agent and/or the person or persons responsible therefore. Such notice shall:

- A. Be in writing.
- B. Include a description of the real estate sufficient for identification including street address, Block & Lot
- C. Specify the violation which exists and the remedial action required.
- D. Allow a reasonable time for the performance of any act it requires.

159-1.17 PROSECUTION OF VIOLATION

In case any violation order is not promptly complied with, the Enforcement Official may request the legal representative to institute an appropriate action or proceeding at law or in equity against the owner and/or the person responsible for the violation, ordering him:

- A. To restrain, correct or remove the violation or refrain from any further execution of work;

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- B. To restrain or correct the erection, installation or alteration of such building;
- C. To require the removal of work in violation;
- D. To prevent the occupation or use of the building, structure or part thereof erected, constructed, installed or altered in violation of or not in compliance with the provisions of this Chapter or in violation of a plan or specification under which an approval, permit or certificate was issued; or
- E. To enforce the penalty provisions of this Chapter.

³159-1.18 VIOLATIONS AND PENALTIES

Any person, firm or corporation who or which shall violate any provisions of this Chapter shall, upon conviction thereof, 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. Every day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

159-1.19 APPEALS PROCEDURE

- A. Any owner or person who is aggrieved with the ruling or decision of the Enforcing Officer in any matter relative to the interpretation or enforcement of any of the provisions of this Chapter may appeal the decision or interpretation.
- B. This appeal must be filed with the appropriate authority, in writing, within ten (10) days of the date of ruling or decision appealed from.
- C. The appropriate authority shall be the Business Administrator for the Borough of Lincoln Park, or his designee.

159-1.20 SAVING CLAUSE

This Chapter shall not affect violations of any other Ordinance, Code or regulation of the municipality existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those Ordinances, Codes or regulations in effect at the time the violation was committed.

³ Amended by Ord. 1,249 Adopted on 9/18/00 Effective 10/8/00

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ARTICLE II

TERMINOLOGY

159-2.1 INTERCHANGEABILITY OF TERMS

- A. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.
- B. Whenever the words “**multifamily dwelling**,” “**residence building**,” “**dwelling unit**,” “**rooming house**,” “**rooming unit**,” or “**premises**” are used in this Chapter, they shall be construed as though they were followed by the words “**or any part thereof**.”

159-2.2 TERMS DEFINED IN UNIFORM CONSTRUCTION CODES

Where terms are not defined in this Article and are defined in the Uniform Construction Codes, they shall have the same meanings ascribed to them as in the Uniform Construction Codes.

159-2.3 TERMS NOT DEFINED

Where terms are not defined under the provisions of this Chapter or under the provisions of the Uniform Construction Codes, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.

⁴159-2.4 DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purpose of this Chapter, have the meanings indicated:

APPROVED “**Approved**,” as applied to a material, device or method of construction, shall mean approved by the Enforcement Official under the provisions of this Chapter or approved by other authority designated by law to give approval in the matter in question.

BASEMENT A portion of the building partly underground, but having less than half its clear height below the average grade of the adjoining ground (see definition of “**cellar**”).

BEDROOM A habitable room, used for sleeping purposes, which affords privacy equipped with a door.

BUILDING CODE The Building or Construction Code Adopted by the Governing Body of the Borough of Lincoln Park, or such other Code as may be designated by the

⁴ Amended by Ordinance 1,275 Adopted on November 19, 2001 (Added Ground Surface Hazard(s), Sidewalk & Street)

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Governing Body for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures.

CELLAR Means a story partly underground and having more than one-half ($\frac{1}{2}$) of its clear height below the average level of the adjoining finished grade, or having less than four (4') feet of clear height above the average level of the adjoining finished grade.

DWELLING UNIT One (1) or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

ENFORCEMENT OFFICER The official designated herein or otherwise charged with the responsibilities of administering this Chapter, or his authorized representatives.

EXTERIOR PROPERTY AREAS The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

FAMILY Means one (1) or more persons, living and cooking together in a non-profit dwelling unit, on a permanent basis, equivalent to that of a traditional family unit. For purposes of this Chapter, one (1) or more persons living together in a rooming house, boarding house or single room occupancy unit, subject to the ROOMING AND BOARDING HOUSE ACT OF 1979 (N.J.S.A. 55:13B-1 et seq.) shall not constitute a "FAMILY".

GARBAGE The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GROSS FLOOR AREA The total area of all habitable space in a building or structure.

GROUND SURFACE HAZARD(S) OR UNSANITARY CONDITION(S) Holes, cracks, broken or missing pavement, loose stones or paving, excavations, breaks, projections, subsidence, ice, uncleared snow and excretions of pets and other animals, exposed roots, projecting or overhanging branches, and leaves of trees and shrubs, on paths, sidewalks, walks, driveways, parking lots and parking areas and other parts of the property which are accessible to and used by persons on the property or the general public.

HABITABLE ROOM A room or enclosed floor space arranged for living, eating and sleeping purposes (not including bathrooms, water closet compartments, laundries, pantries, foyers, hallways and other accessory floor spaces).

HOTEL Any multiple dwelling, including but not limited to any related structures, accessory building and land appurtenant thereto and any part thereof, subject to the provisions of the Hotel and Multiple Dwellings Law (**N.J.S.A. 44:13A-1 et seq.**).

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INCIDENTAL COOKING FACILITIES Any mechanical, electric, gas, or other device for the preparation of food by the application of heat-containing not more than one (1) plate or burner not exceeding eight (8") inches in diameter.

INFESTATION The presence in or contiguous to a structure or premises of insects, rodents, vermin or other pests.

MOTEL The same meaning as a "HOTEL."

MULTIPLE DWELLING A building containing three (3) or more dwelling units, registered pursuant to and subject to the provisions of **N.J.S.A. 44:13A-1 et seq.** (Hotel and Multiple Dwelling Law), but shall not be deemed to include a hospital, school, convent, monastery, asylum or other public institution.

OCCUPANT Any person over one (1) year of age (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

OPEN ABLE AREA That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR Any person who has charge, care or control of a structure or premises which are less or offered for occupancy.

OWNER The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possessions, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building or of premises, or their duly authorized agents.

PERSON An individual, firm, corporation, association or partnership.

PLUMBING or PLUMBING FIXTURES Water heating facilities, water pipes, gas pipes, garbage and disposal units, waste lavatories, bathtubs, shower baths, installed clothes washing machines or other similar equipment, catch basins, drains, vents or other similarly supplied fixtures, together with all connections to water, gas, sewer or vent lines.

PREMISES A lot, plot or parcel of land, including the buildings or structures thereon.

RESIDENCE BUILDING A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided except when classified as an institution under the Uniform Construction Codes.

RUBBISH Combustible and noncombustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather,

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tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SIDEWALK An exterior path or walkway, whether improved or unimproved, used, designed, constructed or maintained for use by pedestrians, including public sidewalks located on or along a street.

STREET A public street, public easement, public right-of-way, public highway, public alley, public way or public road accepted or maintained by the Borough and any state or county road over which the Borough may have acquired jurisdiction by agreement.

STRUCTURE An assembly of materials forming a construction for occupancy or use, whether install over, on upon, or under a piece of land, including, but not limited to buildings, stadiums, tents, reviewing stands, platforms, stages, observation towers, radio towers, water tanks, trestles, piers, wharves, open sheds, coal bins, shelters, fences and display signs.

VENTILATION The process of supplying and removing air by natural or mechanical means to or from any space.

A. MECHANICAL-Ventilation by power-driven devices.

B. NATURAL-Ventilation by any opening to an exterior space through windows, skylights, doors, louvers or stacks without wind-driven devices.

WORKMANLIKE Whenever the words "**WORKMANLIKE STATE OF MAINTENANCE AND REPAIR**" are used in this Chapter, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

YARD An open unoccupied space on the same lot with a building extending along the entire length of a street or rear or interior lot line.

⁵159-2.5 **SIDEWALK MAINTENANCE**

All persons owning or occupying residential property; which has located thereon or abutting thereto any public or private sidewalk, which are used by and/or are open to the general public, shall be required to maintain, construct, replace and repair the same in a workmanlike state of maintenance and repair. All holes, cracks, excavations, subsidence, or uneven pavement in sidewalks shall be maintained, filled, repaired or replaced as necessary, walks and steps repaired and other conditions removed where necessary to eliminate ground surface hazards or unsanitary conditions with reasonable dispatch upon their discovery. It shall be the responsibility of the owners and occupants of residential property to take reasonable steps to discover any such ground surface hazards or unsanitary conditions; which may exist on sidewalks on their premises or abutting thereto.

⁵ Amended by Ordinance 1,275 Adopted on November 19, 2001 (Added Section 159-2.5 Sidewalk Maintenance)

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ARTICLE III

ENVIRONMENTAL REQUIREMENTS

159-3.1 SCOPE

The provisions of this Article shall govern the minimum conditions of property and buildings. Every building or structure occupied by humans, except as exempted by **Subsection 159-8.1**, and the premises on which it stands shall comply with the conditions herein prescribed as they may apply thereto.

²159-3.2 EXTERIOR PROPERTY AREAS

No person shall occupy as owner-occupant or let to another for occupancy any structure or premises which does not comply with the following requirements. The Enforcement Official of the municipality shall cause periodic inspections to be made of all premises to secure compliance with these requirements.

- A. **Sanitation.** All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage.
- B. **Grading and Drainage.** All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon or within any building or structure located thereon.
- C. **Noxious Weeds.** All exterior property areas shall be kept free from species of weeds or plant growth which are known or detrimental to the public health.
- D. **Insect And Rodent Harborage.** Every owner of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of the premises, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.
- E. **Accessory Structures.** All accessory structures, including detached garages, shall be maintained structurally sound and in good repair.
- F. **Abandoned Vehicles.** No person shall keep, store, abandon or leave upon any lot, or parcel of private property within the Borough any of the following:
 - 1. A motor vehicle having an expired registration for more than three (3) months, and not currently used for transportation.
 - 2. Unused machinery or equipment.

² Amended by Ordinance 1,252 Add Paragraph G, Adopted 10/16/00, Effective 11/5/2000

- G. **Exterior Property Areas.** All exterior grass and lawn areas of residential premises shall be maintained at a cut height of no more than six (6") inches, or any height which results in the germination of any grass, weed, or plant seed or seed pods, whichever is less.

159-3.3 EXTERIOR STRUCTURE

No person shall occupy as owner-occupant or let to another for occupancy any structure to portion thereof which; does not comply with the following requirements:

- A. **Foundations, Walls And Roof.** Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents.
1. **Foundation.** The foundation elements shall adequately support the building at all points.
 2. **Exterior Walls.** Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exposed surfaces thereof shall be maintained to eliminate conditions reflective of deterioration or inadequate maintenance, such as loose shingles, blistered or peeling paint, to the end that the property itself may be preserved, safety hazards eliminated and adjoining properties and the neighborhood protected from blighting influences. All exposed surfaces thereof shall be protected against weathering or deterioration by a suitable protective coating appropriate for the particular material involved.
 3. **Roofs.** The roof shall be structurally sound, tight and have no defects which might admit rain, and roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building. All leaders, gutters and down spouts shall be maintained in a state of good repair and adequate to carry off water from the building.
 4. **Stairs, Porches And Railings.** Stairs and other exit facilities shall be adequate for safety, as provided in the Uniform Construction Codes, and shall comply with the following:
 5. **Structural Safety.** Every outside stair, every porch and every appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected as required by the Uniform Construction Codes and shall be kept in sound condition and good repair.
 6. **Handrails.** For safety, every flight of stairs which is more than three (3) risers high shall have handrails which shall be located as required by the Uniform Construction Codes; and every porch which is more than three (3) risers high shall have handrails so located and of such design as required by the Uniform

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Construction Codes. Every handrail and balustrade shall be firmly fastened and shall be maintained in good condition.

- B. **Windows, Doors And Hatchways.** Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair.
1. **Windows To Be Glazed.** Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes.
 2. **Windows To Be Tight.** Every window sash shall be in good condition and fit reasonably tight within its frame.
 3. **Windows To Be Open able.** Every window, other than a bed window, shall be capable of being easily opened and shall be held in position by window hardware.
 4. **Doors To Fit In Frame.** Every exterior door, when closed, shall fit reasonably well within its frame.
 5. **Window And Door Frames To Fit In Wall.** Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the dwelling or structure.
 6. **Basement Hatchways.** Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the dwelling or structure.
 7. **Exit Doors.** Every door available as an exit shall be capable of being opened from the inside easily and free from obstructions and blockages.
- C. **Screening.** Guards and screens shall be supplied for protection against rodents.

159-3.4 INTERIOR STRUCTURE

No person shall occupy as owner-occupant or let to another for occupancy any structure or portion thereof which does not comply with the following requirements:

- A. **Free From Dampness.** In every building, cellars, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure as required by the Uniform Construction Codes.

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- B. **Structural Members.** The supporting structural members of every building shall be maintained structurally sound, showing no evidence of deterioration which would render them incapable of carrying the imposed loads in accordance with the provisions of the Uniform Construction Codes.
- C. **Interior Stairs And Railings.** Stairs shall be provided in every structure as required by the Uniform Construction Codes.
1. **Maintained In Good Repair.** All interior stairs of every structure shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting a load as required by the provisions of the Uniform Construction Codes.
 2. **Handrails.** Every stairwell and every flight of stairs which is more than three (3) risers high shall have handrails or railings located in accordance with the provisions of the Uniform Construction Codes. Every handrail or railing shall be firmly fastened and must be maintained in good condition. Properly balustrated railings, capable of bearing normally imposed loads as required by the Uniform Construction Codes, shall be placed on the open portions of stairs, balconies, landings and stairwells.
- D. **Bathroom And Kitchen Floors.** Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- E. **Sanitation.** The interior of every dwelling and structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage and other refuse shall be properly kept inside temporary storage facilities as required under **159-4.1D** and **E** of this Chapter.
- F. **Insect And Rodent Harborage.** Buildings shall be kept free from insect and rodent infestation, and where insects or rodents are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.
1. **Extermination From Buildings.** Every owner of a dwelling or multifamily dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests whenever infestation exists in two (2) or more of the dwelling units or in the shared or public parts of the structure.

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2. **Extermination From Single Dwelling Units.** The occupant of a dwelling unit in a dwelling or multifamily dwelling shall be responsible for such extermination within the unit occupied by him whenever his dwelling unit is the only unit in the building that is infested.
 3. **Responsibility Of Owner.** Notwithstanding the foregoing provisions, whenever infestation of rodents is caused by failure of the owner to maintain any dwelling or multifamily dwelling in a rodent proof condition, extermination of such rodents shall be the responsibility of the owner.
- G. **Interior Walls, Ceilings And Floors.** All interior walls, ceilings and floors shall be structurally sound, in good repair, free from defects, clean and painted.
- F. **Doors To Fit In Frame.** Every exterior door, when closed, shall fit reasonably well within its frame.

ARTICLE IV

SPACE AND OCCUPANCY REQUIREMENTS

159-4.1 Purpose

The Purpose of this code is to insure the health, safety and welfare of all residences and visitors of the Borough of Lincoln Park by establishing minimum standards governing the condition and occupancy of residential premises; to establish minimum standards governing the physical components and conditions essential to make the aforesaid facilities fit for human habitation, use and occupancy; to fix certain responsibilities on the owner, operators, as well as the occupants of said facilities; to authorize and establish procedures for the inspection of residential premises; to fix penalties for any violation of this code; and it is intended that this code be liberally construed to effectuate the purposes stated herein.

159-4.2 Definitions

Bedroom shall mean any room containing a bed or convertible bed used primarily for sleeping that contains at least one open able egress window facing directly to the outdoors or to a courtyard. Every bedroom must have access to at least one bathroom without passing through another bedroom. Bedrooms shall not constitute the only means of access to other bedrooms. Kitchens, bathrooms, closets, halls, storage or utility spaces, common areas, and similar areas shall not be utilized as bedrooms.

Common Areas shall mean the rooms within the dwelling unit shared by all occupants for non-sleeping purposes.

Dwelling Unit shall mean a building or part of a building consisting of a single unit, providing complete, independent living facilities, intended for occupancy as a residence for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

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Enforcement Officer shall mean the Zoning Officer, Construction Code Official, Fire Inspector, Health Officer, Police Officer or his/her authorized designee.

Habitable Space SHALL MEAN A SPACE IN A BUILDING FOR LIVING, SLEEPING, EATING, OR COOKING. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Living Space shall mean the space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

Permitted Occupancy shall mean the number of individuals permitted to reside in the dwelling pursuant to the square footage of each bedroom as set forth in this Article.

Prohibited bedrooms are any room or space containing a bed, convertible bed, or used for sleeping purposes that does not meet the definition of bedroom as contained herein.

Occupant shall mean one or more persons customarily living together as a single housekeeping unit, whether related or not related to each other by birth or marriage, as distinguished from a group of individuals, not related, living together, financially independent of one another.

159-4.3 Occupancy Standards

- A. Minimum standards. All residential dwellings shall meet the following requirements.
 - 1. Every bedroom occupied by an occupant shall contain at least 70 square feet of floor area and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each other occupant thereof.
 - 2. Every bedroom shall have access to at least one bathroom without passing through another bedroom.
 - 3. A bedroom shall not constitute the only means of access to other bedrooms or habitable space.
 - 4. No kitchen, foyer, vestibule, or living area used in common by residents of a dwelling unit shall be used for sleeping purposes.
 - 5. Basements with habitable spaces and every sleeping room shall have at least one openable emergency escape and rescue opening.
- B. Basements for human habitation. Basements may be used for human habitation provided.
 - 1. There is a minimum ceiling height of seven feet in at least 75 percent of living area.

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2. There is sufficient light and ventilation and at least 50 percent is above grade.
3. All furnaces or other heating facilities are located separate and insulated from the living areas by fireproof partitions or walls necessary so that the same do not constitute an undue hazard to the safety and health of the occupants.
4. The habitable area is free from visible moisture and seepage at all times.

159-4.4 Occupancy Restrictions for Dwelling Units.

- A. A dwelling unit is in violation of exceeding the permitted occupancy if any of the following exist:
 1. The dwelling unit contains prohibited bedroom(s).
 2. The Dwelling unit is one in which an overcrowding situation exists.
- B. A dwelling unit in which a single family resides, that is technically considered to be in violations of exceeding the permitted occupancy, may not be subject to the violation. The occupants shall have the burden of proving that they are a single family.

159-4.5 Inspections.

- A. All buildings and premises subject to this Article are subject to inspection from time to time by an enforcing officer of the Borough. At the time of inspection, all rooms in the building and all parts of the premises must be available and accessible for such inspection.
- B. All Enforcement Officers shall be supplied with official identification issued by the Borough and upon request shall exhibit such identification when entering any dwelling unit or any part of any premises subject to this code. All Enforcement Officers shall conduct themselves so as to avoid intentional embarrassment or inconvenience to occupants.
- C. Where an Enforcement Officer is refused entry or free access or is otherwise impeded, inhibited, restricted, obstructed, or prevented by the owner/occupant, or someone acting on his/her behalf, from conducting an inspection of the premises or any part thereof, such person shall be in violation of this article.
- D. If deemed necessary, due to extenuating circumstances, a search warrant may be obtained from the Borough Municipal Court, pursuant to law. Any inspection conducted in connection with a duly issued search warrant shall be accompanied by a uniformed police officer.

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159-4.6 Violations.

- A. The Enforcement Officer, on discovery of a violation of this Article, may immediately issue a summons, answerable in Municipal Court, to any person or entity who is in violation of any section of this Article. For each and every violation, a separate summons may be issued.
- B. The summons may be served personally or by certified mail, return receipt requested, at the last known address of the owner or any address made known to the Borough, and/or in the case of a violation by an occupant, may be posted on the door of the dwelling unit.
- C. An individual or entity found to be in violation of overcrowding, as set forth in this Article, shall be subject to a fine in an amount not to exceed \$2,500 for the first violation, \$5,000 for the second violation, and \$10,000 for all subsequent violations.

159-4.7 Emergency Measures.

Where violations or conditions on the premises constitute an immediate threat of life or limb unless abated without delay, the Enforcement Officer, may either abate the condition immediately or order the owner or occupancy to correct the violation or condition within a period of time not to exceed three (3) days, or upon failure to do so, the Enforcement Officer shall abate the condition immediately thereafter.

159-4.7 Recovery of Costs.

When the abatement of a condition so as to bring the premises into compliance with municipal ordinances or state law requires the expenditure of municipal funds, the appropriate Borough Official shall present a report of the proposed work to the Borough Administrator with an estimate of the cost thereof and a copy of the notices provided to the owner and/or occupant. The Borough Administrator shall review and recommend the undertaking of remedial work and the adoption of an authorizing resolution to the Borough Council for their consideration. Upon passage of the resolution, the appropriate Borough Official shall undertake the necessary work, the cost of which shall not exceed the amount set forth in the authorizing resolution. Upon completion of the specified work, a report, including the total expenditure, shall be submitted to the Borough Administrator and Council for approval, whereupon same shall become a lien against the said property, collectible as provided by law. A copy of the resolution approving the expenditure shall be filed with the Borough Tax Collector and served upon the owner/occupant along with the report supporting same.

159-4.9 Referral of Other Violations.

Any violation of any ordinance other than this Article discovered by an Enforcement Officer during an authorized inspection shall be reported to the official or agency responsible for enforcement of said other Ordinance.

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Any Borough Official who witnesses a violation of this Article during an authorized visit or inspection of a dwelling unit shall refer said violation to the appropriate Enforcing Officer for Inspection.

159-4.10 Applicability

The provisions of this Article shall apply to every residential building situated in the Borough of Lincoln Park used or intended to be used for occupancy purposes, whether or not such building shall have been constructed, altered, or repaired before or after the enactment of this Code and their respective building permits or licenses which may have been issued for the use and occupancy of the building previously.

ARTICLE V

RESPONSIBILITY FOR COMPLIANCE

159-5.1 Scope

Owners and occupants of structures and/or premises, and owners or operators of rooming houses shall be responsible for maintenance thereof as provided in this Chapter.

159-5.2 Cleanliness

Every owner or occupant of a building or part thereof shall keep that part of the building or premises thereof which he owns, occupies, controls or uses in a clean and sanitary conditions.

159-5.3 Reserved

159-5.4 Reserved

159-5.5 Use And Operation Of Supplied Plumbing Fixtures

Every owner or occupant of a building or part thereof shall keep the supplied plumbing fixtures there clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

159-5.6 Installation And Care Of Plumbing Fixtures Furnished By Occupant

Every plumbing fixture furnished by the owner or occupant of a building or structure shall be properly installed and shall be maintained in good working condition, kept clean and sanitary and free of defects, leaks or obstructions.

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ARTICLE VI

NON-RESIDENTIAL STRUCTURES

159-6.1 Sanitation

All exterior property areas shall be maintained in a clean and sanitary condition, free from accumulation of rubbish, garbage, refuse and abandoned motor vehicles.

159-6.2 Noxious Weeds

All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health. All weed growth over the height of twelve (12") inches shall be cut and raked.

159-6.3 Grading And Drainage

All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon.

159-6.4 Exterior Walls

Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls. All exterior surfaces must be kept in good appearance and be painted in accordance with acceptable standards; and all siding must be maintained and kept in good repair.

159-6.5 Foundations, Retaining Walls, Fences And Roofs

Every foundation must be weather-tight and watertight and kept in good repair and maintenance. Retaining walls and fences shall be maintained in good repair and painted where required. Roofs shall be structurally sound and weather-tight so as not to permit dampness to enter the structure.

159-6.6 Windows And Doors

Every window sash shall be fully supplied with glass window panes or substitute approved by the Director, which are without open cracks or holes, as provided by the Uniform Construction Codes. Every door shall be so constructed and maintained in relation to the adjacent wall construction so as to be weather-tight, and such doors, if required, shall be painted to preserve the finish of the door.

159-6.7 Driveways

Where driveways are installed or required, such driveways shall be free of holes and cracks and shall be maintained in good condition.

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ARTICLE VII

VACANT BUILDINGS

159-7.1 Securing Of Vacant Buildings; Notification Of Borough

Upon the vacancy of any structure, the owner or agent or responsible persons as defined by this Chapter, shall remove from the structure all combustible waste materials, refuse, garbage, debris and all other items that may prove a health hazard and securely board and lock all openings against trespass for as long as the structure remains unoccupied. Such vacant and/or abandoned structures shall be immediately reported to the public officer of the Borough or the Director.

ARTICLE VIII

CERTIFICATE OF RE-RENTAL APPROVAL

159-8.1 Statement Of Policy

- A. The Borough of Lincoln Park is committed to the preservation of good housing and the enhancement of high-quality, residential neighborhood environment, and in this regard the Governing Body finds the regulation of rental housing space in dwellings to an appropriate focus of policymaking.
- B. Further, the rental or housing space in dwellings in the Borough is an important area of concern to the Governing Body in consideration of the fact that a large portion of households in the Borough occupy rented housing space.
- C. Under the police powers granted to the Borough and in order to protect the health, safety and welfare of the citizens of the Borough, it is necessary to regulate the circumstances under which housing space may be rented.
- D. Whereas, existing programs have not kept pace with the need for Code Enforcement, and an appropriate opportunity to intervene in the downward cycle of housing deterioration is presented on the re-renting of a housing space, therefore, this Article makes provision for Code Enforcement through requiring the obtaining of a Certificate of Re-rental requiring the obtaining of a Certificate of Re-rental approval in each instance of the re-rental of housing space.

159-8.2 Definitions

The following terms, whenever used or referred to in this Article, shall have the following respective meanings for the purposes of this Article, unless a different meaning clearly appears from the context:

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DEPARTMENT The Department of Health of the Borough of Lincoln Park

DWELLING Any building or structure rented or offered for rent to one (1) or more tenants for family residential units.

HOUSING SPACE Includes that portion of a dwelling rented or offered for rent for living and dwelling privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the rental property, save that the term “**housing space**” shall not apply to a two-family dwelling in which one housing space is occupied by the owner of such dwelling and the other housing space is rented or offered for rental.

MINOR VIOLATION A departure from **Chapter 159, Property Maintenance – Residential**, which still leaves the housing space in substantial compliance with such Chapter.

SERVICE The provision of electric, power, heat, hot water, maintenance, painting, elevator service, air conditioning, storm windows, screens, superintendent service and any other benefit, privilege or facility connected with the use of occupancy of any dwelling or housing space.

159-8.3 Certificate of Re-Rental Approval Required

- A. A Certificate of Re-Rental Approval shall be obtained from the Department of Health, by the landlord of every dwelling which; is subject to the provisions of this Article immediately prior to allowing a new tenant to take possession of a housing space.
- B. The inspection required by the following Section shall be conducted within thirty(30) days prior to the new tenant’s possession of the housing space.
- C. The provisions of this Article shall not apply to an attached, two-family dwelling, located upon a single lot, in which one of the two units of dwelling space are personally occupied by the owner or owners as their principal residence or to any multiple dwelling subject to periodic inspection pursuant to **N.J.S.A. 55:13A-1 et seq.** (“**Hotel and Multiple Dwellings Law**”).

159-8.4 Inspections; Temporary Certificate Of Re-Rental Approval; Request For Expedited Certificate And Inspection

- A. The required Certificate of Re-Rental Approval shall be granted in respect of any housing space within a dwelling only after such housing space shall have been physically inspected to ascertain its compliance with **Chapter 159, Property Maintenance – Residential**.
- B. The inspection shall be carried out within three (3) business days following receipt of the request for a Certificate of Re-Rental Approval and payment of any required fee(s). if such inspection is not completed by 4:00 pm of the third (3rd) business day following receipt of the request for inspection and

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payment, the owner shall be granted a temporary Certificate of Re-Rental Approval and may permit a tenant to occupy the housing space pending completion of the inspection.

159-8.5 Inspection Fee; Issuance Or Denial Of Certificate; Results To Owner

- A. Requests for inspection to the Department shall be accompanied by a fee of **twenty-six (\$26.) dollars** per housing space. If such inspection reveals the presence of no violations of the standards, specifications or requirements, set forth herein, the Department shall issue a Certificate Of Re-Rental Approval. If any violations are found, and are not deemed to be minor violations, no Certificate Of Re-Rental Approval shall be issued. The results of all inspections (or re-inspections) under this Article shall be served upon the owner in accordance with **Section 159-1.15**
- B. Notwithstanding any other provision of this Article, it shall not be grounds for denial of a Certificate of Re-Rental Approval, if, at the time of inspection, utilities serving the premises (electricity, gas or water) have been temporarily disconnected pending occupancy by a new tenant; provided, however, that the owner shall still be required, at the time of such inspection, to have housing spaces supplied and connected with all facilities and equipment required by **Chapter 159, et seq.**

159-8.6 Requests For Re-Inspections; Fee

The Department shall, in accordance with the rules set forth in **Section 159-8.4**, conduct re-inspection of dwelling spaces for which no Certificate Of Re-Rental Approval was issued after a prior inspection, due to the existence of Code Violations. Any such request shall be accompanied by a re-inspection fee of **Twenty-five (\$25.) dollars** per dwelling space.

159-8.7 Fees For Multiple Inspections

Whenever an owner requests inspection of more than one (1) housing space, at any single street address, the following fees shall accompany said application:

<u>Number of Housing Spaces</u>	<u>Initial Inspection</u>	<u>Re-Inspection</u>
First Housing Space	\$50.00	\$25.00
Second Housing Space	\$40.00	\$20.00
Third and each additional Housing space	\$30.00	\$15.00

159-8.8 When Tenant To Pay Cost Of Re-Inspection

In the event a tenant fails to take possession of the housing unit on a date required by or specified to the owner, and a re-inspection is required because a prior inspection or re-inspection is not deemed to be immediately prior to the tenant's possession, the owner may require the tenant to pay the entire cost of such re-inspection.

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159-8.9 Promulgation Of Rules And Regulations And Forms

To enforce the terms of this Article, the Department shall have the authority to promulgate:

1. Such Rules and Regulations as are necessary to carry out the provisions hereof.
2. Inspection application forms, expedited inspection application forms, Certificate Of Re-Rental Approval forms and any other necessary forms.

159-8.10 Appeal From Denial Of Certificate Of Re-Rental Approval; Procedures, Records

- A. Any person aggrieved by a denial of a Certificate Of Re-Rental Approval may appeal, in writing, to the Borough Administrator of the Borough of Lincoln Park. The Borough Administrator shall hear the appeal, render a decision thereon and file his decision with a statement of the reasons therefore with the Department not later than **Ten (10)** business days following the submission of the appeal, unless such period of time has been extended with the consent of the applicant. Such decision may affirm, reverse or modify the decision of the Department or remand the matter for further action.
- B. A copy of the decision shall be forwarded by Certified or Registered Mail to the party taking the appeal.
- C. Failure to hear an appeal and render and file a decision thereon within the time limits prescribed in this Section, shall be deemed a denial of the appeal for purposes of a complaint, application or appeal to a court of competent jurisdiction.
- D. A record of all decisions made by the Borough Administrator, properly indexed, shall be kept and shall be subjected to public inspection during business hours.

159-8.11 Reserved

159-8.12 Violations And Penalties

Any person who violates any provision of this Article shall, upon conviction thereof, be punished by a fine not exceeding **One Thousand (\$1,000.00) Dollars**, by imprisonment for a term not exceeding **Ninety (90) Days** or by a period of community service for not more than **Ninety (90) Days**, or any combination thereof. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

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ARTICLE X

CERTIFICATE OF COMPLIANCE PRIOR TO TRANSFER OF TITLE

159-9.1 Authority To Conduct Inspections And Issue Certificates Of Compliance

The Department of Health of the Borough of Lincoln Park, is hereby authorized to conduct inspections of residential dwellings and dwelling units and to certify the result thereof by the issuance of a Certificate of Compliance.

159-9.2 Contents Of Certificate

The Certification issued shall list any violations of **Chapter 17, Development Review Ordinance; Chapter 28, Zoning Ordinance; Chapter 95, Construction Codes, Uniform; Chapter 114, Unfit Dwellings; Chapter 127, Fire Prevention; Chapter 162, Public Health Nuisances; and Chapter 161, Weeds, Brush & Other Impediments;** and shall in prominent type contain the statement that, **“THE BOROUGH OF LINCOLN PARK DOES NOT GUARANTEE TO PURCHASER, MORTGAGOR OR MORTGAGEE THAT THE PREMISES INSPECTED ARE FREE FROM LATENT DEFECTS; NOR IS THE BOROUGH LIABLE FOR DAMAGES OR INJURY CAUSED ANY PERSON AS THE RESULT OF ANY VIOLATION NOT REPORTED HEREIN.”**

159-9.3 Requests For Certification

All requests for Certification shall be in writing to the Director of the Department of Health and shall be accompanied by the appropriate fees set forth in **Subsection 159-9.5** below.

159-9.4 Issuance Of Certificates

- A. The Certifications shall be issued by the Department of Health within three (3) weeks of receipt of the written request.
- B. In no event shall the Borough be liable for any delay in issuance of Certification.

159-9.5 Fees

The fees for inspections and notices, orders or statements issued under this Article shall be as follows:

A. Dwelling Units:

- 1. One- and two-family dwellings: Fifty (\$50.00) Dollars
- 2. Three-family dwelling units: Seventy-Five (\$75.00) Dollars
- 3. Four-dwelling units and over: One Hundred (\$100.00) Dollars

- B. Mixed occupancy fees shall be computed on the Occupancy categories listed above.

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- C. The re-inspection fee shall be half ($\frac{1}{2}$) of the required fee for inspection.