

Schedule A

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 openable 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.

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 any person living or sleeping in a building; or having possession of a space within a building. For the purpose of this Article, a child under one year of age shall not be considered an occupant.

Overcrowding shall mean a dwelling unit that has more individuals residing therein than square footage available in the permitted bedrooms to accommodate all occupants, as determined by the number of permitted bedrooms and the permitted occupancy of each bedroom. Dwelling units shall not be occupied by more occupants than allowed under permitted occupancy.

Single family 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.

159-4.3Occupancy 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.
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 violation 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.

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, \$5000 for the second violation, and \$10,000 for all subsequent violations.

159-4.7Emergency Measures.

Where violations or conditions on the premises constitute an immediate threat to life or limb unless abated without delay, the Enforcement Officer may either abate the condition immediately or order the owner or occupant 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.

159-4.8Recovery 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.

159-4.9Referral 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.

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.