

**EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK**

**ORDER NO. 11**

**ORDER OF THE EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK  
DEFINITION OF “RETIREMENT” FOR PAYMENT OF TERMINATION BENEFITS**

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BY THE AUTHORITY VESTED IN THE EMERGENCY MANAGER FOR THE CITY OF LINCOLN PARK  
PURSUANT TO MICHIGAN’S PUBLIC ACT 436 OF 2012  
BRAD COULTER, THE EMERGENCY MANAGER, ISSUES THE FOLLOWING ORDER:

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WHEREAS, under the Local Financial Stability and Choice Act, Act 436, Public Acts of Michigan, 2012 (“Act 436”), Brad Coulter has been appointed as the Emergency Manager (the “EM”) of the City of Lincoln Park, County of Wayne, Michigan (the “City”); and

WHEREAS, pursuant to Section 9(2) of Act 436, the EM “shall act for and in the place and stead of” the Mayor, the City Manager, as the Chief Administrative Officer, and of the City Council, as the governing body of the City; and

WHEREAS, Section 9(2) of Act 436 also grants the EM “broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the [City] and the [City’s] capacity to provide or cause to be provided necessary governmental services essential to the public health, safety and welfare;” and

WHEREAS, Section 9(2) of Act 436 prohibits, during the pendency of receivership, the Mayor and the Council from exercising “any powers of those offices except as may be specifically authorized in writing by the [EM] or as otherwise provided by [Act 436] and are subject to any conditions required by the [EM];” and

WHEREAS, Section 12(1)(dd) of Act 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions of the local government” as provided in the Michigan Home Rule City Act, Act 279, Public Acts of Michigan 1909 (the “Home Rule Act”); and

WHEREAS, Section 12(1)(ee) of Act 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[t]ake any other action or exercise any power or authority of any officer, employee, department, board, commission, or other similar entity of the local government, whether elected or appointed, relating to the operation of the local government.

The power of the [EM] shall be superior to and supersede the power of any of the foregoing officers or entities;” and

WHEREAS, pursuant to Section 12(2) of Act 436, “during the pendency of the receivership, the authority of the chief administrative officer and governing body to exercise power for and on behalf of the local government under law, charter, and ordinance shall be suspended and vested in the [EM];” and

WHEREAS, Section 3(k) of the Home Rule Act requires that the City’s charter provide for “adopting, continuing, amending, and repealing the city ordinances;” and

WHEREAS, Chapter V, Section 13 of the City Charter grants to the City Council and, pursuant to the above-referenced sections of Act 436, the EM, “full power by ordinance to continue, amend or repeal, in whole or in part, any existing ordinance;” and

WHEREAS, City Ordinance Chapter 292 entitled “Employees Generally” covers various employment conditions related to all employees; and,

WHEREAS Chapter 294.02 Definitions. (p) defines retirement and membership in the pension system as it relates to the pension annuity due under the Employees Retirement System but is silent on the definition of retirement as it relates to termination benefits that may be payable; and,

WHEREAS, Chapter 296.02 Definitions. (n) defines retirement and membership in the pension system as it relates to the pension annuity due under the Policemen’s and Firemen’s Retirement System but is silent on the definition of retirement as it relates to termination benefits that may be payable; and,

WHEREAS, the definition of “retirement” needs to be clarified as it relates to termination benefits such as unused sick pay that may be due at retirement.

**IT IS HEREBY ORDERED THAT:**

1. City Ordinance 292.10 shall be added which states:

“292.10 Definition of Retirement for Payment of Termination Benefits.

Retirement for purpose of qualifying for accrued benefits paid at the date of retirement such as sick pay shall be defined as the attainment of age fifty with twenty-five or more years of service or after twenty-eight years of service regardless of age.”

2. City Ordinance 294.02 (p) shall be modified to read “ “Retirement”, as it specifically relates to this chapter only covering the Employees Retirement System and the qualification for pension benefits, shall mean withdrawal from service with a retirement allowance or pension granted in accordance with this chapter.”

3. City Ordinance 296.02 (n) shall be modified to read “ “Retirement”, as it specifically relates to this chapter only covering the Policemen’s and Firemen’s Retirement System and the qualification for pension benefits, shall mean withdrawal from service with a retirement allowance or pension granted in accordance with this chapter.”

4. Nothing in this Order shall be, or shall be deemed to be, a limitation, modification, waiver, or relinquishment by the EM of any right or power available under Act 436, all of which rights and powers are expressly preserved.

5. This Order shall be distributed to the Mayor, the Chief Administrative Officer, the City Council and the State of Michigan Department of Treasury.

**SO ORDERED** this 2nd day of February, 2015.

By: 

BRAD COULTER  
Emergency Manager  
City of Lincoln Park

cc: State of Michigan Department of Treasury  
Mayor Thomas E. Karnes  
Members of the Lincoln Park City Council