

EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK

ORDER NO. 12

**ORDER OF THE EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK
REPEALING CERTAIN SECTIONS OF THE MECHANICAL AMUSEMENT DEVICES
ORDINANCE**

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:

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, the current City ordinance pertaining to Mechanical Amusement Devices, Lincoln Park Codified Ordinances Chapter 852, has certain provisions to wit: Ch. 852.12 OPERATION BY MINORS, Ch. 852.13 LICENSING OF PLACES FREQUENTED BY MINORS, Ch. 852.14 AWARDS FOR PLAY and Ch. 852.15 PAYOFF MACHINES, that provide as follows:

852.12 OPERATION BY MINORS.

No person under eighteen years of age shall operate a mechanical amusement device or video game during regular public school hours. No person under sixteen years of age shall operate a mechanical amusement device or video game at any time unless accompanied by his or her parent, grandparent or legal guardian. No licensee or owner of any mechanical amusement device, video game or arcade, or any servant, agent or employee of any such licensee or owner, shall permit any person under eighteen years of age to operate a mechanical amusement device or video game during regular public school hours, or permit any person under sixteen years of age to operate such a device or game at any time unless the minor is accompanied by a parent, grandparent or legal guardian.

(Res. 82-315. Passed 4-19-82.)

852.13 LICENSING OF PLACES FREQUENTED BY MINORS.

No establishment, store or place of business shall be licensed under this chapter if the same is a place of business where minors under eighteen years of age form a substantial portion of the patronage or are in any manner permitted to congregate therein. However, this section shall not apply in the case of juvenile mechanical amusement devices.

(1979 Code Sec. 5.10.130)

852.14 AWARDS FOR PLAY.

No person by himself or herself, or by his or her agent or employee or otherwise, shall give any prize, award, merchandise, gift, money, free game, additional free game or thing of value to any player or operator of any mechanical amusement device or video game, or to any person or contestant, based upon score results on such device.

(Res. 82-315. Passed 4-19-82.)

852.15 PAYOFF MACHINES.

No person shall operate any mechanical amusement device, video game or gambling device which is so constructed that the same is or may be converted into an automatic payoff device which is capable of giving, discharging or returning slugs, money, coins, checks, tokens, merchandise or things of value, or any payoff by any other means or manner, including free games or additional games. No license for any such machine shall be issued. This section shall not apply to music boxes or to other devices permitted by these Codified Ordinances.

And

WHEREAS, these provisions were adopted over thirty years ago to address a perceived arcade-truancy problem; and

WHEREAS, the statutory, judicial, regulatory and cultural context vis-à-vis arcade/video games has changed substantially; and

WHEREAS, the Emergency Manager recognizes the need to update certain provisions of the Codified Ordinances of Lincoln Park to better comply with certain statutory, judicial and regulatory changes:

IT IS HEREBY ORDERED THAT:

Chapters 852.12, 852.13, 852.14, and 852.15 of the Codified Ordinances of the City of Lincoln Park are repealed in their entirety, and reserved as section numbers for future use.

SO ORDERED this 9th day of March, 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