

EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK

ORDER 41

TRANSPORTATION AND POSSESSION OF MARIJUANA 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, currently transportation and possession of medical marijuana is restricted and prosecuted under State law; and

WHEREAS, the Emergency Manager recognizes that such violations may be prosecuted under local ordinance.

WHEREAS, the below language is in line with the Michigan Penal Code Section 750.474

IT IS HEREBY ORDERED THAT:

Chapter 618, Drugs, is hereby amended to include new subsection 618.12 entitled TRANSPORTATION AND POSSESSION OF MARIJUANA which new subsection shall read as follows:

618.12 – TRANSPORTATION AND POSSESSION OF MARIJUANA.

(a) A person shall not transport or possess usable marijuana as defined in Section 26423 of the public health code, 1978 PA 368 MCL 333.26423, in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the usable marijuana is one (1) or more of the following:

1. Enclosed in a case that is carried in the trunk of a vehicle.
2. Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk.

(b) A person who violates 618.12 (a) is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than five hundred dollars (\$500.00), or both.

SO ORDERED this 24th day of August, 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

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.474 Transportation or possession of usable marihuana; violation as misdemeanor; penalty.

Sec. 474. (1) A person shall not transport or possess usable marihuana as defined in section 26423 of the public health code, 1978 PA 368, MCL 333.26423, in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the usable marihuana is 1 or more of the following:

(a) Enclosed in a case that is carried in the trunk of the vehicle.

(b) Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

History: Add. 2012, Act 460, Imd. Eff. Dec. 27, 2012.

Compiler's note: Former MCL 750.474, which pertained to exposing others to communicable disease, was repealed by Act 368 of 1978, Eff. Sept. 30, 1978.