

EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK

ORDER NO. 7

**ORDER OF THE EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK
INCREASE WATER AND SEWER RATES**

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, City Ordinance Chapter 1042, entitled "Water," provides for the connection, metering, responsibilities, rates, and administration of Water service within the City; and

WHEREAS, City Ordinance 1042.26 specifies "The rates fixed by this chapter are estimated to be sufficient to provide for the payment of expenses of administration, operation and maintenance of the water system as are necessary to preserve the same in good repair and working order" and continues to state "Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is covenanted and agreed at all times to fix and maintain such rates for services furnished by the system as shall be sufficient to provide for the foregoing."

WHEREAS, the City's aging water and sewer system is in need of continual maintenance and emergency repairs, there is a need for additional revenue to fund an increase in specialized labor to maintain the system, purchase equipment for working on the system, and funds for paying contractors providing maintenance and emergency repairs.

WHEREAS given the above need for additional funds, and consistent with his duties under Act 436, the EM has determined that it is necessary and appropriate to increase water and sewer rates by 15% effective March 1, 2015.

IT IS HEREBY ORDERED THAT:

1. The Water rate and the Sewer rate charged by the City will be increased by 15% over the current rates. This increase is effective March 1, 2015.
2. 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.
3. 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 26th day of December, 2014.

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