



CITY OF PONTIAC
OFFICE OF THE EMERGENCY MANAGER

LOUIS H. SCHIMMEL

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Dated: October 19, 2011

ORDER NO. S-106

RE: City of Pontiac Solid Waste Disposal System Fee Ordinance ("Ordinance")

TO: Mark Hotz, City Attorney
Yvette Talley, City Clerk
John Naglick, Acting Finance Director
Sheryl Stubblefield, Acting Treasurer
Carl Johnson, Controller (Plante & Moran)

The **Local Government and School District Fiscal Accountability Act (Public Act 4 of 2011)** in **Section 17(1)** empowers an Emergency Manager to issue the orders the Manager considers necessary to accomplish the purposes of the Act and any such orders are binding on the local officials or employees to whom they are issued. **Section 19(1)** provides that an Emergency Manager may take on one or more additional actions with respect to a local government in receivership: **(f)** Examine all records and books of account, and require under the procedures of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to 21.55, or both, the attendance of witnesses and the production of books, papers, contracts, and other documents relevant to an analysis of the financial condition of the unit of local government; **(g)** Make, approve or disapprove any appropriation, contract, expenditure...; **(dd)** Exercise solely, for and on behalf of the local government, all other authority and responsibilities of the local government of the chief administrative officer and governing body concerning the adoption, amendment and enforcement of ordinances or resolutions of the local government...; and **19(2)** ...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 Emergency Manager.

As part of the Amended Financial Plan for the City submitted to the State of Michigan Treasury Department, a Solid Waste Disposal System Fee is to be established to assist the City in recovering certain service costs of its Sanitation System. This fee can be assessed under State law, specifically the Revenue Bond Act, MCLA 141.121, et. seq.

Following publication of a summary of the proposed Ordinance and a public hearing held on October 19, 2011, I am authorizing adoption of the Ordinance.

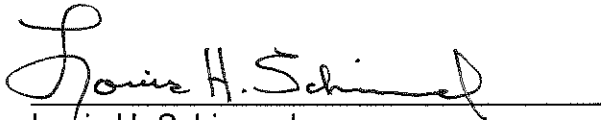
It is hereby ordered:

- (1) The new Ordinance, attached and identified as Ordinance No. 2235 is hereby adopted, effective October 31, 2011 (see attached Exhibit A).
- (2) The City Attorney take all steps necessary to reflect the above Ordinance changes on the City books and records, including publication of the adopted Ordinance.
- (3) The Mayor, City Council, City Department Heads and the heads of all City of Pontiac affiliated entities and funds are hereby informed of the adopted Ordinance. The prompt and full cooperation of all City of Pontiac elected and appointed officials, department heads, employees and all other individuals with responsibility for the City of Pontiac, its affiliated entities and funds with this Order is necessary to maintain compliance with the City's Amended Financial Plan.

The Order shall have immediate effect.

Copies of the documents referenced in this Order are to be maintained in the offices of the City Clerk and the Law Department and may be reviewed and/or copies may be obtained upon submission of a written request consistent with the requirements of the Michigan Freedom of Information Act and subject to any exemptions contained in that state statute and subject to any exemptions allowed under that statute (**Public Act 442 of 1976, MCL 15.231, et. seq.**).

This Order is necessary in order to carry out the duties and responsibilities required of the Emergency Manager as set forth in the **Local Government and School District Fiscal Accountability Act (Public Act 4 of 2011)** and the contract between the State of Michigan and the Emergency Manager.



Louis H. Schimmel
City of Pontiac
Emergency Manager

cc: State of Michigan Department of Treasury
Mayor Leon B. Jukowski
Pontiac City Council

EXHIBIT A TO ORDER S-106

City of Pontiac Solid Waste Disposal System Fee Ordinance

THE CITY OF PONTIAC

ORDINANCE NO. 2231

Adopted: October 19, 2011

**THE CITY OF PONTIAC, COUNTY OF OAKLAND, MICHIGAN
ORDAINS, THROUGH ORDER S -106 OF EMERGENCY MANAGER LOUIS H.
SCHIMMEL DATED October 19, 2011, AS AN EMERGENCY ORDINANCE ISSUED
PURSUANT TO HIS EMERGENCY POWERS PURSUANT TO THE LOCAL
GOVERNMENT AND SCHOOL DISTRICT ACCOUNTABILITY ACT
(Public Act 4 of 2011):**

**AN ORDINANCE TO AMEND CHAPTER 94, "SOLID WASTE", SECTION 94-1 BY
INSERTING ADDITIONAL DEFINITIONS AND BY ADDING A NEW ARTICLE III
ENTITLED SOLID WASTE DISPOSAL SYSTEM FEE, INCORPORATING SECTIONS
94-51 THROUGH 94-60**

THE CITY OF PONTIAC ORDAINS:

Section 94-1 captioned Definitions is amended to include the following additional definitions:

Sec. 94-1. Definitions.

"City Council" means either the City Council or the Emergency Manager if, and for so long as, an Emergency Manager is appointed and acting in the City pursuant to the Local Government and School District Fiscal Accountability Act (Public Act 4 of 2011), a successor statute or any other statute governing the power of an Emergency Manager. In the event an Emergency Manager is appointed and acting in the City, the Emergency Manager's authority, actions and power with respect to this Ordinance shall be exclusive.

"Solid Waste" means the identical meaning in Part 115 of the Michigan Natural Resources and Environmental Protection Act, MCL §§ 324.11501-.11550, as amended.

"Solid Waste Disposal System" means solid waste disposal plants, incinerators, transportation systems used in connection with transport of solid waste, resource recovery facilities, processing facilities, composting facilities, solid waste transfer facilities, any other solid waste handling or disposal facility or instrumentality utilized in the transport, disposal or disposition of solid wastes and all instrumentalities and properties used in connection with those systems.

Article III entitled Solid Waste Disposal System Fee is added to provide for the following:

ARTICLE III. SOLID WASTE DISPOSAL SYSTEM FEE

Section. 94-51 is added to provide for the following:

Sec. 94-51. A fee(s), for municipal solid waste collection.

A fee(s), for municipal Solid Waste collection, disposal and disposition that shall be charged to those owners of property receiving services under the terms of this ordinance ("Solid Waste Disposal System Fee").

Section 94-52 is added to provide the following:

Sec. 94-52. Rates for the solid waste disposal system fee to be established periodically by resolution of the city council.

The rates for the Solid Waste Disposal System Fee, including late fees, to be charged for the Solid Waste Disposal System shall be established periodically by resolution of the City Council, which charges may be enacted apart from the published ordinance. The Solid Waste Disposal System Fee shall be in such an amount as the City Council deems necessary and sufficient to pay for the following items: expenses or administration and operation and expenses to keep the Solid Waste Disposal System in good working order; interest and principal on any bonds issued for the Solid Waste Disposal System; to create a reserve for the administration or operation of the Solid Waste Disposal System; and for other expenditures and funds for the Solid Waste Disposal System as may be required.

Section 94-53 is added to provide the following:

Sec. 94-53. Late fee for failure to make timely payment of charges for pickup.

The City may charge a late fee to owners of the premises or real estate served by the Solid Waste Disposal System for failure of an owner to make timely payment of charges for the pickup, disposal or other disposition of municipal Solid Waste and use of the Solid Waste Disposal System.

Section 94-54 is added to provide the following:

Sec. 94-54. Solid waste disposal system fee shall be charged against each lot, parcel or premises to which municipal solid waste collection services are supplied.

The Solid Waste Disposal System Fee shall be charged against each lot, parcel or premises to which municipal Solid Waste collection services are supplied by the City and the Solid Waste Disposal System Fee shall be paid to the City by the owners thereof.

Section 94-55 is added to provide the following:

Sec. 94-55. Fiscal budget adopted by the city council shall provide for the solid waste disposal system fee.

The fiscal budget adopted by the City Council shall provide for the Solid Waste Disposal System Fee. The Solid Waste Disposal System Fee shall be certified to the assessor and assessed against the premises served by the Solid Waste Disposal System and it shall be collected or returned in the same manner as the municipal taxes are certified, assessed, collected and returned. The fee is to be an annual fee to be assessed against the applicable premises on either the July or December tax rolls. Notwithstanding the timing of the assessment, the City shall assess and collect the entire annual fee amount against the applicable premises.

Section 94-56 is added to provide the following:

Sec. 94-56. City council may by resolution make changes to the solid waste disposal system fee.

The City Council may by resolution make changes to the Solid Waste Disposal System Fee as conditions may require.

Section 94-57 is added to provide the following:

Sec. 94-57. No free service.

No free service shall be allowed for any user of the Solid Waste Disposal System.

Section 94-58 is added to provide the following:

Sec. 94-58. If payment for charges for pickup is not made within ninety (90) days of the due date, notice that service may be discontinued will be sent.

If payment for charges for the pickup, disposal or other disposition of Solid Waste and use of the Solid Waste Disposal System is not made within ninety (90) days of the due date specified on the bill, a notice shall be sent by first class mail that service may be discontinued. The City may discontinue municipal Solid Waste collection service from the premises or real estate

against which the lien created by this ordinance has accrued if a person fails to pay the Solid Waste Disposal System Fee and any late fees or the City may institute a civil action for the collection of the Solid Waste Disposal System Fee and any late fees against the owner of the premises or real estate. The City's attempt to collect the Solid Waste Disposal System Fee and any late fees by civil process shall not invalidate or waive the lien upon the premises or real estate.

Section 94-59 is added to provide the following:

Sec. 94-59. City shall have as security for payment of the solid waste disposal system fee a lien upon the premises or real estate to which the services were supplied.

The City shall have, as security for payment of the Solid Waste Disposal System Fee, for any charges to any customer, a lien upon the premises or real estate to which the services of the Solid Waste Disposal System was supplied. The lien shall become effective immediately upon billing for the service to the premises or real estate. The lien may be enforced by the general laws of the State of Michigan providing for the enforcement of tax liens. The lien created by this ordinance shall have priority over all other liens, except for taxes and special assessments and shall have equal priority with other liens imposed for City-supplied municipal services.

Section 94.60 is added to provide the following:

Sec. 94-60. No fee shall be charged which is determined by the number of containers or quantity of municipal solid waste to be picked up except where such fee was established before November 1, 2011, or where such fee has been approved by a majority of the voters.

Notwithstanding any other provision of this chapter, no fee shall be charged for the pickup, disposal or other disposition of municipal Solid Waste which is determined by the number of containers or quantity of municipal Solid Waste to be picked up, disposed of or marshaled for disposition, except where such fee was established before November 1, 2011, or where such fee has been approved by a majority of the voters at a general or special election in the City. This subsection shall restrict the method of charging and collecting fees but shall not limit the power of the City Council to determine the amount of such fees.

Section 94.61 is added to provide the following:

Sec. 94-61. The various parts, sections and clauses comprising this division shall be deemed to be severable, and should any section or provision of this division be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not effect the validity of any section

or provision of this division other than the section or provision so declared to be unconstitutional or invalid.

Section 94.62 is added to provide the following:

Sec. 94-62. It is the intention of the Emergency Manager of the City of Pontiac, Michigan, and it is hereby ordained that the provisions of this Ordinance Amendment shall become and be made a part of the Municipal Code of Pontiac, Michigan; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, Ordinance may be revised to "Article", "Chapter", "Division", "Subsection", "Subparagraph", "Section", or other appropriate word as needed.

Section 94.63 is added to provide the following:

Sec. 94-63. All ordinances or parts of ordinances in conflict herewith except as otherwise provided in this Ordinance are hereby repealed only to the extent necessary to give this Ordinance Amendment full force and effect.

Section 94.64 is added to provide the following:

Sec. 94-64. This ordinance shall be effective October 31, 2011.