



CITY OF PONTIAC
OFFICE OF THE EMERGENCY MANAGER
LOUIS H. SCHIMMEL

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Dated: January 13, 2012

ORDER NO. S-135

RE: Board of Appeals Ordinance

TO: Sherikia Hawkins, City Clerk
Michael Wilson, Building Official
Charles W. Smith, Wade Trim

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: **(dd)** [e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and the governing body concerning the adoption, amendment, and enforcement of ordinances...; 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.

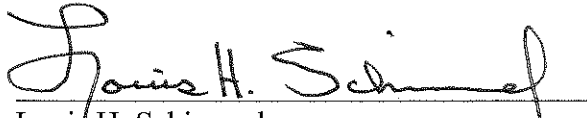
It is hereby ordered:

1. That the attached Ordinance No. 2239, creating a board of appeals to serve as the appellate body under the Housing Law of Michigan, is adopted.
3. That the City Clerk shall take all actions required under the law to reflect the attached ordinance changes on the City books and records, including publication of the adopted ordinance.

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.

A handwritten signature in cursive script that reads "Louis H. Schimmel". The signature is written in black ink and is positioned above a horizontal line.

Louis H. Schimmel
City of Pontiac
Emergency Manager

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

An ordinance to create a Board of Appeals to serve as the appellate body under the Housing Law of Michigan.

The City of Pontiac ordains:

Section 1. Division 8, Board of Appeals.

Sec. 22-808. - Created; purpose.

There is hereby created a board of appeals to hear appeals to hear all of the cases and carry out all of the duties of the city council described in section 141(3) and (4) of the Housing Law of Michigan, Act 167 of 1917.

Sec. 22-809. - Composition; Qualifications.

The board of appeals shall be appointed by the city council and shall consist of the following members:

- a. A building contractor
- b. A registered architect or engineer.
- c. Two members of the general public.
- d. An individual registered as a building official, plan reviewer, or inspector under the building officials and inspectors registration act, Act No. 54 of the Public Acts of 1986, being sections 338.2301 to 338.2313 of the Michigan Compiled Laws. The individual may be an employee of the city.

Sec. 22-810. - Terms.

Board of appeals members shall be appointed for 3 years, except that of the members first appointed, two members shall serve for 1 year, two members shall serve for 2 years, and one member shall serve for 3 years. A vacancy created other than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member may be appointed for additional terms.

Sec. 22-811. - Officers.

The board of appeals shall elect a chairperson, vice-chairperson, and other officers that the board considers necessary.

Sec. 22-812. - Quorum.

A majority of the board of appeals members appointed and serving constitutes a quorum. Final action of the board of appeals shall be only by affirmative vote of a majority of the board members appointed and serving.

Sec. 22-813. - Compensation.

The city council shall fix the amount of any per diem compensation provided to the members of the board of appeals. Expenses of the board of appeals incurred in the performance of official duties may be reimbursed as provided by law for employees of the city.

Sec. 22-814. – Open Meetings.

A meeting of the board of appeals shall be held pursuant to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

Sec. 22-815. – Records to be Public

A writing prepared, owned, used, in the possession of, or retained by the board of appeals in the performance of an official function shall be made available to the public pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 22-816. - Appeal to Circuit Court.

An owner aggrieved by a final decision or order of the board of appeals may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days of the date of the decision.

Sec. 22-817. - Application; fees.

Any person shall have the right to appeal a decision of the hearing officer to the board of appeals. The application shall be filed on a form obtained from building official. No application shall be processed until the required application fee is paid. Such application fee shall be set by city council resolution upon adoption of the annual budget or by Order of the Emergency Manager.

Section 2. Severability.

If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 3. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Emergency Declaration

This Ordinance is hereby determined to be immediately necessary for the preservation of the public health, safety, and welfare and shall be in full force and effect from the time of its adoption and publication as required by law.