



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

47450 Woodward Avenue
Pontiac, Michigan 48342
Telephone: (248) 758-3133
Fax: (248) 758-3292

Dated: January 26, 2012

ORDER NO. S-147

RE: Ordinance concerning inspections of one-and two-family dwellings

TO: Sherikia Hawkins, City Clerk
Charles 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.

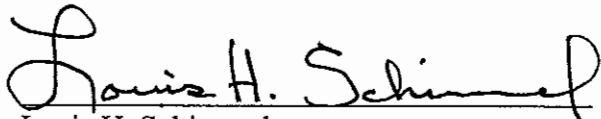
It is hereby ordered:

1. That the attached Ordinance No. 2247, an ordinance concerning inspections of one- and two-family dwellings, effective February 1, 2012.
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 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 black ink that reads "Louis H. Schimmel". The signature is written in a cursive style with a horizontal line underneath the name.

Louis H. Schimmel
City of Pontiac
Emergency Manager

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

Ordinance No. 2247

An ordinance to amend Chapter 22, Article VI, Division 7 of the Code of Ordinances concerning inspections of one- and two-family dwellings.

The City of Pontiac ordains:

Section 1. Amendment.

Section 22, Article VI, Division 7 of the Code of Ordinances shall be amended to read as follows:

Sec. 22-801. - Registry of owners and premises.

- (a) A registry of owners and premises shall be maintained by the Department of Building Safety.
- (b) The owners of one- and two-family dwellings which are occupied by persons other than the owner, which may be evidenced by the homestead declaration on the property being less than 100% and a dwelling unit not occupied by the titled owner of the property, or a one- or two-family dwelling for which an owner is offering to others for purposes of occupancy through rental or lease agreements, or by other mutually acceptable agreements leading to occupancy including land contracts, shall register their names, places of residence or usual places of business, social security or taxpayer identification number, state identification number, name(s) of the tenant(s), and the location of the premises regulated by this division with the Department of Building Safety. If the premises are managed or operated by an agent, the agent's name, place of business, social security or taxpayer identification number, and state identification number shall also be provided. The owners shall register by March 31, 2012 after the enactment of this division, without additional penalty. Within sixty (60) days after change of ownership or change of agent, the new owner or agent shall reregister with the Department of Building Safety in the same manner as previously set forth. The Department of Building Safety may require information in addition to the information required by this division for purposes of registration. A fee shall be paid upon registration. Such registration shall be valid until changed. Late registration fees paid after its due date shall be assessed a twenty-five dollar (\$25.00) late fee per rental unit per month until paid.
- (c) A property that has a land contract recorded with the Oakland County Register of Deeds that names the occupant of the dwelling unit shall be exempt from the requirements of this division.

Sec. 22-802. - Fees.

- (a) Fees for registration, certificates of compliance, temporary certificates, rescheduling fees, related inspections, appeals, and any other fee required by this division shall be recommended by the Finance Director and the Department of Building Safety and established by resolution of the City Council upon adoption of the annual budget and may be amended by resolution of the City Council from time to time. Fees shall be payable at time of registration or request for inspection.
- (b) Property owners shall also be responsible for any unpaid fees invoiced within the previous 365 days. After March 31, 2012, any invoice that is paid after its due date shall be assessed a twenty-five dollar (\$25.00) late fee per rental unit per month until paid.
- (c) There shall be no refunds for any fees paid unless the service is not provided because of the fault of the Department of Building Safety.

- (d) Effective January 1, 2013, the Department of Building Safety may charge one information verification fee during a calendar year to verify information obtained during the registry of owners and premises, including names of tenants, obtained in a previous calendar year. If such verification fee is assessed, the City Council shall by December 1 of the prior calendar year, upon the recommendation of the Finance Director and the Department of Building Safety, establish the fee. The fee shall be in effect for the entire calendar year and shall expire on the last day of the calendar year. Any unpaid verification fee shall be assessed a one-time twenty-five dollar (\$25.00) late fee after its due date.

Sec. 22-803. – Inspections required.

- (a) The Department of Building Safety shall cause periodic inspections to be made of dwellings regulated by this division. In no event shall the period between the inspections exceed three years.
- (b) In addition to the periodic inspections required by subsection (a) of this section, inspections shall also be required prior to any change in occupancy of a dwelling unit after having once been occupied. It shall be the duty of the owner or agent of such dwelling units to notify the Department of Building Safety prior to the reoccupancy of a vacated one- or two-family dwelling unit. No dwellings subject to this division may be reoccupied until inspected pursuant to this section, except as provided in subsection (a) of section 22-806. The owner or agent of a dwelling unit reoccupied after March 31, 2012 and before the issuance of a certificate of compliance shall be guilty of a municipal civil infraction subject to a fine of five hundred dollars (\$500.00); each day shall be considered a separate offense.
- (c) Inspections shall be conducted in a manner calculated to secure compliance with applicable city ordinances and regulations appropriate to the needs of the community.
- (d) An inspector or team of inspectors may request permission to enter all premises regulated by this division at reasonable hours to undertake an inspection. Upon an emergency, an inspector or team of inspectors shall have the right to enter at any time.
- (e) Owner or the agent shall schedule the inspection at least sixty (60) days before the expiration date of a certificate of compliance, or sooner. Failure to schedule an inspection shall result in the immediate suspension of a certificate of compliance and penalties as described in Section 22-807 (f) and the assessment of a twenty-five dollar (\$25.00) late fee per unit per month for any inspection that is scheduled late under this ordinance after March 31, 2012. No inspection shall be made unless the appropriate fee has been paid. Any request to reschedule an inspection shall result in a rescheduling fee.
- (f) A tenant may request inspection of the dwelling unit upon payment of the inspection fee.

Sec. 22-804. - Inspection warrants.

- (a) In a nonemergency situation where admission to premises to be inspected under the provisions of this division is refused by the occupant or person in charge thereof, the Department of Building Safety shall apply to a court of competent jurisdiction for a warrant to inspect the premises. The warrant shall state the address of the building to be inspected, the nature of the inspection, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection established in this division, or as set forth in other applicable law. The warrant shall also state that it is issued pursuant to this division, and the purpose for which it is issued.
- (b) In the event of an emergency, no inspection warrant shall be required.

Sec. 22-805. - Inspection policy and recordkeeping.

- (a) It is the policy of the city that the inspection procedures set forth in this division are established in the public interest to secure the health and safety of the occupants of dwellings and of the general public.

- (b) The current edition of the International Property Maintenance Code along with any subsequent amendments or supplements with technical amendments approved and recommended by the International Code Council is hereby adopted by reference to establish the minimum conditions of the dwelling unit and the maintenance of the structure in general.
- (c) The Department of Building Safety shall keep records of all inspections and matters related to the procedures set forth in this division in accordance with the record retention schedule adopted by the City Council.

Sec. 22-806. - Certificate of compliance.

- (a) An owner or agent shall apply for a certificate of compliance. Inspection and issuance of certificates shall be in accordance with the requirements of this division and with rules and procedures established by the Building Code Official.
- (b) An application for a certificate of compliance shall be made when the owner enrolls in the registry of owners and premises. If the owner fails to register within the time required, any occupant of unregistered or uncertified premises may make application.
- (c) Single- and two-family dwellings regulated by this division shall not be occupied unless a certificate of compliance has been issued by the Department of Building Safety. The certificates shall be issued only upon prior inspection of the premises, except as provided in subsection (f) of this section. The certificate shall be issued within fifteen (15) days if the dwelling is entitled thereto at the date of inspection.
- (d) Inspections shall be made prior to first occupancy of single- and two-family dwellings regulated by this division when the construction or alteration is completed.
- (e) Upon finding that there is no condition that would constitute a hazard to the health and safety of the occupants, and the premises are otherwise fit for occupancy, the certificate of compliance shall be issued. If the finding is of a condition that would constitute a hazard to health or safety, no certificate shall be issued, and an order to comply with this division shall be issued immediately and served upon the owner in accordance with section 22-807. On reinspection and proof of compliance, the order shall be rescinded and a certificate issued.
- (f) When a certificate of compliance is withheld pending compliance, no premises that have not been occupied for dwelling purposes shall be so occupied, and those premises that have been or are occupied may be ordered vacated until reinspection and proof of compliance has been established by the Department of Building Safety.
- (g) A certificate of compliance shall be issued on condition that the premises remain in safe, healthful, and fit condition for occupancy. If upon reinspection the Department of Building Safety determines that conditions exist that constitute a hazard to health or safety, the certificate may be immediately suspended and a notice shall be served upon the owner to comply with this division.
- (h) The Department of Building Safety may authorize the issuance of a temporary certificate without inspection for those premises in which there are no violations of record, and shall issue such temporary certificates upon application in cases where inspections are not made within a reasonable time. Temporary certificates may also be issued for premises with violations of record when the owner can show proof of having undertaken to correct such conditions.

- (i) A violation of this division shall not prevent the issuance of a certificate of compliance, but the Department of Building Safety shall not issue a certificate when the existing conditions constitute a hazard to the health or safety of those who may occupy the premises.
- (j) It shall be required, and the responsibility of the owner, to maintain and post on the inside of the main entrance to the dwelling unit one copy of the certificate of compliance, either temporary or permanent, as such certificates are issued, at the premises for which they have been issued.
- (k) No certificate of compliance shall be issued for any property unless all property taxes and water and sewer bills associated with the parcel in question are current and that the owner is in compliance with the provisions of the Pontiac Income Tax Ordinance.

Sec. 22-807. - Violations.

- (a) If, upon inspection, the premises or any part thereof are found to be in violation of any provision of any code or ordinance of the city, the violation shall be recorded by the Department of Building Safety in the applicable owner and premises files.
- (b) The owner, and at the discretion of the Department of Building Safety, the occupants, shall be notified in writing of the existence of the violation. The notice shall state the date of the inspection, the name of the inspector, the specific details of the violation, and the time within which the correction shall be completed.
- (c) A violation that is determined by the inspector to constitute a hazard to the health or safety of the occupants, under circumstances where the premises cannot be vacated, shall be ordered corrected within the shortest reasonable time. All other violations shall be corrected within a reasonable time as determined by the Department of Building Safety.
- (d) The Department of Building Safety shall reinspect after a reasonable time for ascertaining whether the violations have been corrected. There shall be an additional fee charged and paid before each reinspection.
- (e) The Department of Building Safety shall attempt to ascertain those circumstances where the occupant or occupants shall be responsible for the correction of violations. In instances where disputes arise as to responsibility for violations and corrections, the owner of the premises shall be held to be responsible for corrective action, unless the owner establishes that the occupant or occupants are responsible.
- (f) Violation of any provisions of this division shall be deemed a municipal civil infraction, punishable by a fine of not less than \$100.00, or more than \$500.00; plus any costs, damages, expenses, and other sanctions. This division is further subject to the repeat offender provision of this Code. This provision states that increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this division. As used in this division, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this article shall be as follows:
 - (1) The fine for any offense, which is a first repeat offense, shall be no less than \$300.00, plus costs.
 - (2) The fine for any offense, which is a second repeat offense or any subsequent repeat offense, shall be \$500.00, plus costs.

Further, each day on which any violation of this division continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense. In addition to any other remedies available at law, the city may bring in the local district court an injunction or other process against a person or company to restrain, prevent, or abate any violation of this division.

Sec. 22-808. - Appeals.

- (a) If, upon inspection, the premises or any part thereof are found to be in violation of any provision of the International Property Maintenance Code and the Department of Building Safety has declined to issue a certificate of compliance, the property owner has the right to appeal the decision of the Department of Building Safety to the board of appeals established by the city under the Housing Law of Michigan upon petition and payment of the appeal fee.
- (b) 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 dates of the decision.

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. Saving Clause.

A prosecution which is pending on the effective date of this ordinance and which arose from a violation of an ordinance repealed by this ordinance, or a prosecution which is started within one (1) year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance and which was committed prior to the effective date of this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

Section 4. 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 5. 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 on February 1, 2012 and upon publication as required by law.

