



CITY OF PONTIAC
OFFICE OF THE EMERGENCY MANAGER

LOUIS H. SCHIMMEL

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Dated: March 29, 2012

ORDER NO. S-174

RE: Vacant Property Registration Ordinance

TO: Sherikia Hawkins, City Clerk
Charles Smith, Project Manager, Wade Trim
Michael Wilson, Building Code Official

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.

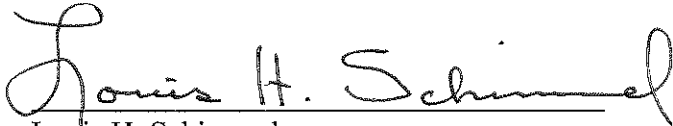
It is hereby ordered:

1. That the attached ordinance to amend Chapter 22, Article VIII of the Code of Ordinances to include Vacant Residential and Commercial Property Registration and Maintenance, being Ordinance No. 2253 is adopted, effective upon publication.
2. That the City Clerk shall take all actions required under the law to reflect the attached ordinance on the City books and records, including publication of the notice of the newly 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 the printed 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. 2253

An ordinance to amend Chapter 22, Article VIII Buildings and Building Regulations, of the Pontiac Code of Ordinances, to include Vacant Residential and Commercial Property Registration and Maintenance

The City of Pontiac Ordains:

Section 1. Amendments.

Chapter 22, ARTICLE VIII of the Code of Ordinances, Unoccupied Buildings to be known as VACANT PROPERTY REGISTRATION AND MAINTENANCE shall be amended to read as follows:

Sec. 22-910. Purpose.

The purpose of this article is to help protect the health, safety, and welfare of the citizens of Pontiac by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances, and ensuring the safe and sanitary maintenance of all buildings. This article is intended to assist the city in creating a registry of vacant properties along with contact information for utility shutoff, code enforcement, building and fire safety, and police actions.

Sec. 22-911. Scope.

This article applies to all residential and commercial property within the city.

Sec. 22-912. Definitions.

For purposes of this article,

- a) *Borrower* means a borrower under a mortgage, who grants a lien or interest in property to a trustee as security for the payment of a debt.
- b) *Building* means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.
- c) *Evidence of vacancy* means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers, and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; broken or boarded up windows; abandoned vehicles, auto parts or materials; the absence of window coverings, such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with habitation or occupation; visible evidence of fire damage or vandalism; statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.
- d) *Foreclosure* means the process by which a mortgage default is enforced against a parcel of real property through sale or offering for sale or court judgment to satisfy the debt of the borrower.
- e) *Lender* means a person, firm, or corporation holding a mortgage on a property.
- f) *Mortgage* means a recorded lien or interest in real property to secure payment of a loan.
- g) *Owner* means an individual, co-partnership, association, corporation, company, fiduciary, or other person or legal entity having a legal or equitable title or any interest in any real property.
- h) *Structure* means anything constructed or erected and the use of which requires location on or attachment to the ground, and includes buildings.
- i) *Possessory Lender* means a person, firm, or corporation that has foreclosed a mortgage on a property, but may not have legal or equitable title.
- j) *Vacant property* means a building, or structure that is not legally or currently occupied.
Exception: Vacant property shall not include property that is temporarily unoccupied while the residents are away on vacation or personal business, if such vacancy does not exceed a period of six (6) months. If such vacancy exceeds a period of six (6) months, the property shall be considered vacant and the owner shall register the property in accordance with Section 22-913.

Sec. 22-913. Registration of vacant property.

- a) An owner of a vacant property in the city shall register that property with the Department of Building Safety by complying with the requirements in this article. If the owner fails or refuses to register the property, the possessory lender or lender shall comply with this provision. Vacant property shall be registered within thirty (30) days of the vacancy or ten (10) days of evidence of vacancy discovered by representatives of the Department of Building Safety as defined in section 22-912.
- b) Annual Fee Waivers. Fees are waived for properties owned by city, county, state and federal government agencies and properties owned by registered non-profits, subject to verification of 501-c(3) status; however, registration is still required.
- c) In addition to a registration, the City may require vacant properties file for an annual certificate of compliance.
- d) Registration of property under this division is in addition to, and not in lieu of, the requirements of MCL 125.539(i), which allows for demolition of vacant structures, or nuisance abatement by the City.
- e) Registration of Excluded Structures: Businesses that are deemed seasonal may register with the Department of Building Safety as a seasonal business and shall be excluded from the definition of vacant property provided all of the following conditions are met:
 - I. Business shall have a valid and current City of Pontiac Business License;
 - II. All property and income taxes owed the City of Pontiac are current;
 - III. All water and sewerage bills issued by the City of Pontiac are current;
 - IV. The business property is maintained including the mowing of grass and weeds; removal of trash and debris; maintenance of landscaping; shoveling and removal of snow and ice; building properly painted or sided; windows, doors and signs maintained in good working order as is required in the most current edition of the International Property Maintenance Code.

Sec. 22-914. Registration affidavit.

Owners, possessory lenders, or lenders who are required to register property pursuant to this article shall submit an affidavit containing the information specified in this section. An agent of the owner, possessory lender, or lender may submit the affidavit, provided the agent's written authorization is attached to the affidavit.

At a minimum, the registration shall include.

- (a) The name, birthdate, and state identification number of the owner of the property;
- (b) A mailing address where mail may be sent that the owner will acknowledge correspondence as received;
- (c) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted;
- (d) A current address, telephone number, facsimile number, and email address where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property;
- (e) The name of and contact information for a property management company if a legal entity is responsible for the care and control of the property;
- (f) The date of birth and state identification number of the individual or legal entity responsible for the care and control of the property;
- (g) Signed confirmation that the dwelling has been properly winterized and water disconnected by the Pontiac Water Department or its agents;
- (h) Signed affirmation of understanding that a Certificate of Compliance will be required in accordance with section 22-918;
- (i) Such other information that the Building Official may require.

Sec. 22-915. Requirement to keep information current.

If at any time the information contained in the affidavit is no longer valid, the property owner, possessory lender, or lender shall file a new affidavit containing current information within ten (10) days. There shall be no fee to update a registered owner's current information. Failure to keep the information current is subject to penalties outlined in Sect 22-925.

Sec. 22-916. Maintenance and security requirements.

All owners, possessory lenders, and lenders (to the extent permitted by law or the terms of a mortgage), are responsible for compliance with the Code of Ordinances of the City of Pontiac, which apply to all vacant property from the time of vacancy, including the time between vacancy and when registration is required.

- (a) Owners shall cause inspection of the property at least once every fourteen (14) days to verify that the requirements of this article and any other applicable ordinances are being met. This provision does not relieve the owner of the obligation to conduct regular maintenance activities, such as mowing or snow and ice removal.
- (b) Adherence to this section does not relieve the owner of any obligations set forth in any covenants, conditions, and restrictions, and/or homeowners' association rules and regulations that may apply to the property.
- (c) All owners, possessory lenders; and lenders (to the extent permitted by law or the terms of a mortgage), are responsible for compliance with the requirements of this Section, which apply to all vacant property from the time of vacancy, including the time between vacancy and when registration is required:
 - i) Property shall be kept free from weeds, grass, dry brush, and dead vegetation in accordance with Article III of Chapter 122 of this Code (Vegetation), as well as inoperable or unplatd vehicles; trash, junk, and debris; building materials; any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law; discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, or any other items that give the appearance that the property is abandoned.
 - ii) Sidewalks shall be kept clear of ice and snow in accordance with Chapter 102, Article V, Section 102-222 (Duty to remove snow and ice; violation and penalties).
 - iii) Property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.
 - iv) All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, trees, shrubs, hedges, or similar plantings. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning, and mowing of required landscaping and removal of all trimming.
 - v) Pools, spas, and other water features shall be kept in working order so that the water remains clear and free of pollutants and debris, or drained and kept dry and free of debris. In either case, properties with pools and/or spas must comply with the minimum-security fencing and barrier requirements of applicable construction, building, and property maintenance codes and ordinances.
 - vi) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to the closure and locking of windows, doors, gates, and any other opening of such size that may allow a child to access the interior of the property and/or structures. Broken windows must be repaired or replaced within seven (7) days. Boarding up of open or broken windows is subject to the provisions and specifications of Sec. 22-922.
- d) Eviction of Personal Property. When an eviction by court order occurs, the owner shall place on the private area of the owner's property, a movable container of sufficient size and type, which will allow access from its side for disposal of the personal property. Any personal property not relocated from the premises shall be placed and disposed of only in the movable container. The movable container shall be removed from the owner's property within 48 hours of its placement. If

a location for a movable container on the owner's property is not reasonable, then the owner may place such container in the public right-of-way upon applying for and obtaining a dumpster and right-of-way permit from the Department of Public Works and paying the required fee.

- e) Owners shall inspect or cause the inspection of vacant property on a regular basis to verify compliance with this section and other applicable laws. If the property is owned by a person other than an individual, and the lender or possessory lender is located more than thirty (30) miles away, a local property management company shall be contracted to perform biweekly inspections to verify that the requirements of this Section and any other applicable laws are being met. The property shall be posted with name and twenty-four hour contact telephone number of a property management company located within thirty (30) miles of the subject property. Such information shall also be filed with the Department of Building Safety. The posting shall be provided by the Department of Building and Safety as the registration certificate will include places for the owner or his authorized designee to sign and date twice monthly. The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street or secured to the exterior of the building structure facing the street to the front of the property so that it is visible from the street, or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property, but not readily accessible to vandals. The local property management company shall inspect the property on a twice-monthly basis at minimum to determine if the property complies with the requirements of this Section. Properties found to be missing the posted registration certificate or properties that have not been inspected on the required twice monthly schedule will be in violation of this ordinance and will be assessed a penalty of \$100.00 for the first violation occurrence, \$300.00 dollars for the second violation occurrence and 500.00 for the third violation occurrence. Any subsequent violations will result in a ticket being issued which will require the property owner's appearance in court.
- f) Insurance shall be maintained on all properties registered as a vacant property.

Section 22-917. Fire damaged property.

If a building is fire damaged, the owner or possessory lender has thirty (30) days from the date of the fire to apply for a permit to start construction or demolition. Failure to do so will result in the property being deemed vacant and/or abandoned and subject to the requirements of this Article.

Sec. 22-918. Re-occupancy, Certificate of Compliance required

A vacant property shall not be occupied until a re-occupancy certificate has been issued by the Building Safety Division, and all violations have been corrected in accordance with the applicable requirements of the State Construction Code, the International Property Maintenance Code, other codes that are part of the State Construction Code administered and enforced by the city, and all other applicable provisions of the Code of Ordinances of the City of Pontiac, unless said conditions are deemed to be legally non-conforming and/or approved by the city's Construction Board of Appeals. A Certificate of Compliance shall require the mechanical, electrical, plumbing, and structural systems be certified by a licensed inspector as being in good repair prior to re-occupancy. In addition, a re-occupancy certificate shall not be issued until all outstanding costs, taxes, water and sewer bills, assessments, and/or liens owed to the city have been paid in full.

Sec 22-919. Inspections.

Regular inspection by the Building Safety Department is required of all vacant property to ensure compliance with the International Property Maintenance Code, as amended. The property owner shall be responsible for paying the inspection fee.

Sec. 22-920. Fees.

Registration, inspection and certificate of compliance fees applicable to this article shall be recommended by the Finance Director and Department of Building Safety and established by resolution of the City Council upon adoption of the annual budget and may be amended from time to time by formal resolution of the City Council. The payment of all fees is secured by a lien against the property, which may be placed on the tax roll for collection in the same manner and subject to the same interest and penalties applicable to delinquent special assessments.

Sec. 22-921. Notice to abate.

Upon observing a violation of the provisions of this article, an enforcement officer may issue a notice to abate to the owner, possessory lender, or lender as shown on the records maintained by Oakland County and/or registration affidavit. The notice to abate shall be served by first class mail and posted in a conspicuous location, where possible, upon the property at issue. Failure to receive such notice is not a defense to any action by the city to abate the violation, collect abatement costs, collect administrative costs, or impose penalties authorized by this article.

The notice to abate shall inform the owner, possessory lender, or lender of the following:

- (a) The nature of the violation;
- (b) The period within which the owner, possessory lender, or lender shall abate the violation, being not more than fifteen (15) days from the date of the notice. The enforcement officer may grant additional time where bona fide efforts to abate the violation are in progress.
- (c) If the owner, possessory lender, and/or lender fails to abate the violation, the enforcement officer may issue a municipal civil infraction citation.
- (d) The city may act to abate the violation if the violation is not abated by the owner, possessory lender, or lender.
- (e) The cost of abatement by the city plus an administrative fee shall be a personal debt of the owner, possessory lender, or lender and which may be assessed as a tax lien against the property until paid.

Sec. 22-922. Securing open property.

Property subject to this article that is left open and/or accessible shall be subject to entry by the city in order to ensure that the property has not become an attractive nuisance and to ensure that the property is locked and/or secured.

- (a) Securing building from trespass required. Every vacant and/or unoccupied building in the city shall be made and maintained secure from trespass by the person responsible therefor.
- (b) The owner, possessory lender, or lender of property which is found open or unsecured and subject to this article shall be responsible for all city costs associated with securing the property if the owner, lender, or possessory lender of property cannot be contacted or does not secure the property within forty-eight (48) hours of city observation. If the owner, possessory lender, or lender has failed to secure a property and it has been secured by the city, the city and/or its contracted agent, may enter or re-enter the structure upon the authorization of the Building Official to conduct necessary inspections to assure compliance with the requirements of this code and to determine if there are emergency or hazardous health and safety conditions in existence.
- (c) In situations where the city determines that the building needs to be immediately secured in order to prevent unauthorized entry into the building, the city may immediately secure the building and the owner, possessory lender, or lender of the property shall be responsible for all city costs associated with securing the property.
- (d) Method of securing building. A vacant or unoccupied building may be made and maintained secure from trespass through the utilization of locked doors and locked windows installed as part of the building; provided, that should either such locked windows or locked doors of the unoccupied building be broken from any cause, then the unoccupied building shall be secured from trespass by the installation and maintenance of material applied to the openings which

would otherwise provide accessibility to trespass in the unoccupied building, which, as a minimum, should be durable, weather resistant, substantially impervious to removal through the application of outside force, and treated, covered or painted so as to prevent deterioration of the material through exposure to the weather and other elements of nature. The method of securing building must conform to City of Pontiac Board Up Specifications promulgated in writing by the Building Official.

- (e) Installation of materials. The finished material referred to in section 22-922(d) shall be installed in accordance with the City of Pontiac Board Up Specifications promulgated by the Building Official in writing, and maintained in such manner and shall be of such design, finish, color, and composition so as not to reflect natural or artificial light source glare into the field of vision of travelers upon the public thoroughfare, whether such travelers be pedestrians or operators of motorized or self-propelled vehicles, and in addition, such material and the installation and maintenance thereof shall in no way interfere with, jeopardize, hamper, or be distracting to the attention of users of the public thoroughfare, whether they be operators of motorized or self-propelled vehicles or pedestrians traveling thereon, nor shall such material or the installation or maintenance thereof create any impairment to the visibility of traffic regulation and control signs and devices.

Sec. 22-923. Emergency abatement by city.

When, in the opinion of the Building Official, there is actual and immediate danger to the public or occupants of a premises caused by a violation on the premises, the Building Official may, without any notice or hearing, order and require any reasonable action to abate the violation. Fees for all emergency abatement actions shall be assessed of the property owner in addition to an administrative fee to cover the cost of maintaining the property database and securing contractors to perform the emergency abatement activities. Such costs and fees shall become a lien on the property.

Sec. 22-924. Abatement by city; lien.

If the notice to abate is not complied with in the allotted time period, then an agent authorized by the Building Official by an order of the 50th District Court may enter the property as many times as necessary to remove or eliminate the violation.

- (a) The owner, possessory lender, and lender shall be liable for all costs incurred by the city to remove or eliminate the violation. In addition, an administrative fee may be included in total costs billed to the owner, possessory lender, or lender.
- (b) Billing of costs will be mailed to the owner by regular mail to the last known address. If the charges involved are not paid by the owner within thirty (30) days from the date of billing, the payment shall be delinquent. In the event of delinquent charges, the city shall have a lien upon such property for the charges, and the lien is enforceable as a tax lien in the manner prescribed by the general laws of the state against the property and collected as in the case of general property tax.

Sec 22-925. Penalty for violation

- (a) Violations of this provision are Municipal Civil Infractions, subjecting persons found responsible for violations to the fines in subsection (b) plus costs, and to the sanctions, remedies and procedures as set forth in this code, with the provision that each day is a separate offense specifically applicable to all violations of this article.
- (b) The fine for a first offense to file the required affidavit, failure to maintain the affidavit with current and accurate information, or for failure to file for an annual inspection shall be \$250. Fines for all other violations or occurrences shall be \$500 per each occurrence.

Sec 22-926 Appeal

The procedure for appeal for decisions of the Building Official under this chapter shall be as follows:

- (a) Any person aggrieved by the decision of the Building Official shall have the right to file a written request with the Department of Building Safety and paying the appropriate appeal fee within ten (10) days of notice being provided to the owner by first class mail and being posted on the primary structure.
- (b) The appeal shall state the decision being appealed and provide a written basis upon which the applicant relies for overturning or modifying the Building Official's decision.
- (c) The Department of Building Safety will provide a date and time in which the appeal will be heard by the Board of Appeals, and such notice shall be mailed to the address provided by the owner on the Appeal Request.
- (d) Any person aggrieved by the decision of the Board Appeals may appeal to the Oakland County Circuit Court.

Section 2. 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 3. 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 4. 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 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 from the time of its adoption and publication as required by law.