



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

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**Dated: August 6, 2012**

**ORDER NO. S-228**

**RE:           Licensing of Businesses Ordinance**

**TO:           Sherikia Hawkins, City Clerk**  
**Charles Smith, Project Manager, 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 to regulate the licensing of businesses, being Ordinance No. 2267, 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 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

**Ordinance No. 2267**

**An Ordinance to regulate the licensing of businesses.**

The City of Pontiac Ordains:

**Section 1. Amendments.**

The following sections of the Code of Ordinances shall be amended to read as follows:

**Section 26-5. - Licensing committee**, shall be amended to read as follows:

- (a) *Created; purpose.* There is hereby created a licensing committee who shall advise the Board of Appeals (created under the Housing Law of Michigan) on matters relating to the denial, revocation or suspension of business license certificates of compliance or liquor license certificates of compliance as required by city ordinances requiring licensing, if such denial, revocation, or suspension is appealed.
- (b) *Composition.* The licensing committee shall consist of the director of the department of community development or his designee.
- (c) *Authority and responsibility.* The committee is hereby authorized to adopt rules and regulations necessary to make effective the provisions of this section and shall report to the Board of Appeals any and all findings relative to the denial, revocation or suspension of any business or liquor license certificate of compliance, should the applicant appeal such decision.

**Section 26-39. - Expiration date**, shall be amended to read as follows:

- (a) The license year shall terminate at midnight, one year after the date of issuance.
- (b) The expiration date of each license shall be indicated on the face thereof.

(Code 1985, § 8-3; Ord. No. 2089, 1-14-99)

**Section 26-40. - Provisions complementary and supplemental**, shall be amended to read as follows:

- (a) No license shall be granted to any applicant until such applicant has complied with all the provisions of this article and every other provision of this Code pertaining to the business for which application for the license is made.
- (b) Unless a different procedure is specified for a particular license issued in this article, every license application for a business license under this article shall be submitted to the administrator of the building and safety engineering division, community development department, referred to in this article as "the administrator," who then shall refer such application to the appropriate designated licensing official, who shall cause all inspections and investigations to be made to ascertain if the premises for which the license is sought are in a safe, sound and sanitary condition and in compliance with all applicable provisions of state law and city ordinance. The following inspections and investigations shall be made and reports filed with the administrator within ten days of the date of application:
  - (1) The administrator shall ascertain whether or not the proposed location of the business is in compliance with all applicable building and zoning codes and ordinances.

(2) The fire services provider shall ascertain whether the proposed location of the business is in compliance with all applicable fire laws.

(3) The licensing committee may require an investigation of the application filed to ascertain whether or not the statements contained therein are accurate. The background of each applicant, partner and officer may be investigated to ascertain the existence of a criminal record which may prevent the issuance of a license under this article.

(4) The city treasurer's office shall ascertain whether all taxes and assessments due the city from the applicant have been paid.

(5) The community development director shall ascertain whether all loans due the city from the applicant have been paid.

(c) Unless otherwise provided in this article, no certificate shall be issued under this article without prior approval of the listed departments, divisions and any other agencies as prescribed:

(1) Upon approval of an application, the business certificate of compliance or liquor renewal certificate of compliance shall remain as the licensee's certificate to conduct business.

(2) Upon disapproval of an application, the administrator shall make aware to the applicant the reason for denying approval, the disapproving department, division or agency name, the personnel to contact and the chapter and section cited as a violation for noncompliance of said code.

(3) If, the applicant does not comply, after being made aware of code violations; the administrator shall make known to the licensing committee any applications in non-compliance to be recommended to the licensing committee for denial, revocation, or suspension.

(4) The licensing committee shall take action to deny, revoke or suspend any application in accordance with sections 26-43 and 26-44 as prescribed:

a. The licensing committee may revoke or suspend a certificate under this article for any of the reasons set forth in section 1-24 or for any violation of this article or chapter, for disorderly or immoral conduct on the premises, or for the violation of any of the rules, regulations, ordinances and laws applying to chapter 26, Businesses. If a hearing is requested or required regarding denial, revocation or suspension of a license under this chapter it shall be held pursuant to section 1-24.

b. The licensing committee shall also have the right to place the licensee under this article on probation for a specific period of time for any violation of this Code, prior to suspension or revocation of said certificate.

c. Upon submission to the licensing committee, of the request for suspension or revocation of a license, permit, registration or certificate issued pursuant to this article, if the licensing committee finds there to be a violation of this article on the premises, the licensing committee may:

1. Upon the first finding of a violation on the certified premises or the licensed individual, establish a specific probationary period of time wherein compliance with this article and applicable regulations is to be continually maintained.

2. Upon the second finding of a violation of this article on the certified premises or licensed individual by the administrator:

- i. Suspend the license, permit, registration or certificate for a limited period of time.
  - ii. Revoke the license, permit, registration or certificate.
- d. Nothing in this section shall be construed to prevent the licensing committee from taking an action out of the aforementioned sequential order, nor be construed to prevent prosecution under section 26-3 for each and every civil infraction.
- e. The licensing committee shall give notice of intention to take action against certification, license or licensee through the administrator. Such notice shall set forth specifically the grounds of the complaint and the time and place of hearing. Service of such notice shall be made by either personal service or by certified mail, return receipt requested, to the licensee at the last known address, at least ten days prior to the date set for hearing regarding probation, revocation or suspension of the license, permit, registration or certificate.
- f. The Board of Appeals may reverse any determination to revoke, suspend or to establish a probationary period for any license, permit, registration or certificate under this article.
- g. No person shall operate any business under this article during any time when his license, permit, registration or certificate has been suspended or revoked.
- h. In case of probation, suspension or revocation of a license, permit, registration or certificate under this article, no portion of the license fee shall be returned to the licensee unless otherwise provided in this Code and/or in any ordinance of the city.
- i. Any probationary period, suspension or revocation of a license, permit, registration or certificate under this article shall be in addition to any penalty or fine as prescribed in this Code.

**Section 26-42. - Exemptions from fees,** shall be amended to read as follows:

No license fee shall be required from any person exempt from payment of the fee by state or federal law. Such persons shall comply with all other provisions of this article or any other provision of this Code. The administrator shall, in all such cases, issue to such persons licenses which are clearly marked as to such exemption and the reason therefore. The city council may, in its discretion, waive any license fee for nonprofit organizations or individuals engaged in nonprofit enterprises upon the showing of hardship by any such organization or individual.

**Section 26-43. - Denial; revocation; suspension,** shall be amended to read as follows:

The issuance of licenses applied for under this article may be denied by the license committee and licenses issued may be revoked or suspended by the license committee at any time for the reasons set forth in section 1-24 of the Code and in accordance with the procedures contained therein, unless specifically provided for otherwise in this article.

**Section 26-44. - Hearing procedures,** shall be amended to read as follows:

Any person whose application for a license is denied shall have the right to a hearing before the Board of Appeals, provided a written request therefore is filed with the administrator within ten days following the denial of the application for a license. The Board of Appeals may reverse any determination to deny the issuance of a license and the Board of Appeals may grant any license. No person shall operate any business during any time when his license therefore has been suspended, revoked or cancelled. Before a license issued pursuant to this article may be suspended or revoked, the notice and hearing procedures contained in section 1-24 of the Code shall be followed.

**Section 26-51. - Application; form, contents,** shall be amended to read as follows:

Unless otherwise provided for in this article, application for license shall be made to the administrator upon forms furnished by the administrator and shall set forth the following information for determination of the applicant's eligibility for licensing:

- (1) The type of license being applied for.
- (2) The address of the proposed business.
- (3) The name of the proprietor(s) of the proposed business. If the proposed business is owned by a partnership, then the names of all partners shall be listed. If the proposed business is owned by a corporation, then the articles of incorporation shall be submitted with the application together with proof that the corporation is registered with the state. If the corporation is a subsidiary of another corporation, then, in addition to the above, the articles of incorporation of the parent corporation shall be submitted. Names of all current officers in the applying corporation shall be included together with the application.
- (4) The home address and home telephone numbers of the proprietor, partners or officers of the applicant's business.
- (5) The name of the owner of the building in which the proposed use is to be established.
- (6) Such other information as the licensing committee may require.

**Section 26-54. - Team inspection and certificate of occupancy required by Building Code,** shall be amended to read as follows:

Prior to operating any business or occupation in the City, and pursuant to the rules and regulations of the Building Code, a team of inspectors consisting of building, electrical, fire, licensing/zoning, mechanical and plumbing shall inspect proposed premises to be operated as a business or occupation.

Upon completion of said inspection, a written report will be forwarded to the applicant by the building and safety engineering division including any and all code violations, requirements for permits, and the requirements for work to be performed by licensed and registered contractors.

Upon completion of all work to correct code violations, the applicant is responsible for scheduling all final inspections to ensure issuance of the certificate of occupancy or compliance.

If an open, operating, and unlicensed business claims that they were unaware of the City's business licensing provisions and can prove their existence and operation by providing three years of federal, state, and city income tax returns, the unlicensed business can secure a business license without a team inspection, provided their location meets the zoning requirements and all other federal, state, and city regulations. Such business will be required to pay all license fees due in arrears as if they were a new business for the first year and a renewal fee for all subsequent years, without additional penalty. Such amnesty period shall remain in effect until June 30, 2013.

**Section 26-55. - New certificate of occupancy required for any new tenant, owner or occupant of a business,** shall be amended to read as follows:

Regardless to the number of businesses located at one address or change of ownership of a preexisting business or change of location of a business; or any other circumstance that would require a new certificate of occupancy, as

defined by the Building Code; the language referenced requiring state license and appurtenant fees in section 26-39 is and shall remain applicable to this section.

**Section 26-56. - Contents of license, permit, registration, or certificate,** shall be amended to read as follows:

Each license, permit, registration, or certificate issued under this article shall state upon its face the following:

- (1) The name of the license, permit, registration, or certificate and any other name under which such business shall be conducted;
- (2) The business name and address of the location where business will be conducted;
- (3) The type of business to be conducted;
- (4) The amount of the fee for the license, permit, registration, or certification fee collected;
- (5) The date of issuance and the date of expiration of the license, permit, registration, or certificate; and
- (6) Such other information as the licensing committee may deem necessary for the administration and enforcement of this chapter

**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 upon publication as required by law.