



**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: June 24, 2013**

**ORDER NO. S-287**

**RE: Adopt ordinance to amend Chapter 94 of the Code of Ordinances regulating sanitation.**

**TO: Sherikia Hawkins, City Clerk**  
**Cathy Square, Director, Department of Public Works**

The Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.15411, et. seq.) in Section 10 empowers an Emergency Manager to issue orders to the appropriate local elected and appointed officials and employees, agents, and contractors of the local government a Manager considers necessary to accomplish the purposes of the Act and any such orders are binding on the local elected and appointed officials and employees, agents, and contractors of the local government to whom they are issued.

Section 12(1) of the Act provides that “[a]n emergency manager may take 1 or more of the following additional actions with respect to a local government that is in receivership, notwithstanding any charter provision to the contrary: (dd) [e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances....”

WHEREAS, Emergency Manager Schimmel introduced the attached ordinance at a public meeting on June 17, 2013; and,

WHEREAS, the proposed ordinance was distributed to each member of the Council and the Mayor by the Clerk; and,

WHEREAS, a summary of the proposed ordinance and time and place of consideration by the Emergency Manager was published in the Oakland Press on June 21, 2013; and,

WHEREAS, the Emergency Manager at a public meeting on June 24, 2013 announced that he is adopting the proposed ordinance.

**It is hereby ordered:**

1. That the attached Ordinance No. 2294, an ordinance to amend Chapter 94 of the Code of Ordinances regulating sanitation, is adopted.
2. 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 effective as indicated and is necessary to carry out the duties and responsibilities required of the Emergency Manager as set forth in the Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.15411, et. seq.) and the contract between the Local Emergency Financial Assistance Loan Board and the Emergency Manager.

A handwritten signature in black ink, reading "Louis H. Schimmel". The signature is written in a cursive style with a large initial "L".

Louis H. Schimmel  
City of Pontiac  
Emergency Manager

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

## Ordinance No. 2294

### An ordinance to amend Chapter 94 of the Code of Ordinance regulating sanitation.

The City of Pontiac ordains:

#### **Section 1. Amendments.**

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

##### **94-26 Refuse containers and yard waste containers, specifications.**

- (a) The owner, agent, lessee, tenant and/or occupant of any house, building or apartment where refuse is generated shall provide weatherproof containers in sufficient numbers and capacity for the proper storage of refuse on the premises for one week.
  
- (b) The owner, agent, lessee, tenant and/or occupant of any house, or apartment of four or less units who use the City of Pontiac provided curbside refuse collection services, shall use the city provided 105- gallon refuse cart for storage on the premises between weekly curbside collections. The user of the city provided curbside refuse collection services shall place all refuse set out for disposal in the city provided refuse cart and to keep the cart lid closed except when in the act of placing refuse in it. The user of the city curbside collection services shall not set items out for refuse disposal that do not qualify for refuse collection. The user of the city provided curbside refuse collection services shall place the city provided refuse container that contains refuse, at the curb in front of the collection address by 7:00 a.m. on the city scheduled day of collection and not before 7:00 p.m. the night before the city scheduled collection day. The user of city provided curbside refuse collection services shall remove the city provided refuse container from the curb by 7:00 p.m. on the day of collection and store it on the property behind/beyond the front building line of the main structure on the property. The user of city provided curbside refuse collection services shall keep the city provided refuse cart in a clean and sanitary condition. The user of the city provided refuse container shall use it within the cart user guidelines provided with the cart and avoid cart damage that may result from user abuse or user misuse. Cart repair/replacement cost resulting from user abuse, user misuse, fire, theft, or loss will be the property owner's responsibility. Determination of responsibility for cart repair/replacement

costs will be made by a representative of the department of public works as assigned by the director. Except for carts purchased from the refuse collection service provider, issued carts remain the property of the refuse collection service provider. No person, except the cart owner or owner's representative, shall remove the cart from the property address where the cart was issued. Refuse collection service provider owned carts that are set out at locations other than the issued location shall be considered a violation of this chapter. Determination of violation and responsible party for improperly relocated and set out carts, will be made by a representative of the department of public works as assigned by the director. Those improperly relocated and setout carts shall be reclaimed by the service provider as violation abatement, emptied of any waste found in them, and returned to the properly issued location. This violation abatement service will be documented but no advance notice to the responsible party or to the property owner is required prior to the abatement service being performed. The cost of this violation abatement, as authorized under section 94-35, shall be assessed to the owner of the property where the cart was issued and/or to the responsible party who moved the cart and/or to the owner of the property where the cart was set out, discovered, and reclaimed. Charges to any responsible party, in addition to any penalty imposed by law, shall be determined on a case by case. The City shall have, as security for payment any charges to any customer, a lien upon the premises or real estate generating the violation and abatement service. 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 article shall have priority over all other liens except for taxed and special assessments and shall have equal priority with other liens imposed for City-supplied municipal services.

- (c) The owner, agent, lessee, tenant and/or occupant of any house, or apartment of four or less units where yard waste is generated, shall provide containers no less than ten-gallon or more than 35-gallon in capacity, of the type approved by the director of public works, in sufficient numbers for the proper storage of yard waste on the premises for one week.
- (d) The owner, agent, lessee, tenant and/or occupant of any house, or apartment of four or less units who use the City of Pontiac provided curbside yard waste collection services shall not set items out for yard waste disposal that do not qualify for yard waste collection. The user of city provided yard waste collection services shall not set out yard waste for collection that does

not meet the yard waste set out containment, weight, and quantity restrictions approved by the director of public works. The user of city provided yard waste collection services shall set yard waste out in approved containers for collection at the curb in front of the collection address by 7:00 a.m. on the city scheduled day of collection and not before 7:00 p.m. the night before the city scheduled collection day. The user of the city provided yard waste collection service shall remove the yard waste containers from the curb by 7:00 p.m. on the day of collection and store them on the property behind/beyond the front building line of the main structure on the property. The user of city provided yard waste collection services shall maintain the yard waste containers in a good, safe, clean, and sanitary condition.

- (e) No yard waste, refuse, rubbish, garbage, ashes, hazardous waste, or other waste matter may be placed, dumped, or raked onto streets or alleys or into street drains.
  
- (f) The following specifications represent the minimum cart standards required by the City for use in servicing homes and apartments of four units or less. The City may consider carts that do not comply with one or more of the following specifications; however contractors providing service to any house or apartment of four units or less shall state any deviation from the specifications and provide information to convince the City that cart performance will not be degraded. Acceptability of alternative specifications is the sole determination of the City.
  - The rollout cart is compatible with both standard American semi-automated bar-locking lifters (ANSI type B) as well as automated arm lifters (ANSI type G).
  - The wheeled refuse carts are designed to contain solid waste materials including paper, fibers, garbage, and rubbish.
  - The cart is provided with adequate wheels and handles so that it can be pushed or pulled with little effort.
  - The capacity of the cart is 105 U.S. gallons, excluding domed lid.
  - The cart is designed to accommodate a load of three hundred thirty five (335) pounds, excluding the weight of the cart.
  - The cart has wheels and axles that are designed to support the weight of the cart and its contents up to 335 pounds.
  - The cart is made with plastic material, specifically prepared to be colorfast so that they do not alter appreciably in normal use.

- The carts will have a color as approved by the director; these colors must be stabilized against ultraviolet light attack with not less than one-half of one percent (1/2 of 1%) UV 531 or equivalent.
- The lid of the cart is designed to facilitate water run-off.
- The lid is held closed by its weight only. No latches are used or required.
- The cart, when empty, will not overturn when the lid is thrown fully open.
- Serial Numbers shall be hot stamped on the cart body using a numbering system of the Contractor's choosing.
- Carts provided by contractors other than the contractor hired by the City for City provided refuse disposal services shall be easily distinguishable from carts used by the city's contractor.

**94-27 City Collection; regulations; disposal of waste.**

- (a) The City shall provide residential refuse collection services available for use by all residential houses, or apartments of four or less units where residential refuse is generated, but not for mobile home parks. The City-provided refuse collection services may be provided by the City or by the City contracting with a waste contractor acceptable to the City; provided, however, that nothing in this ordinance is meant to impair the existing contract between the City and its existing contractor providing refuse and waste services to the City. A resident is not required to use the City refuse collection services, but if they choose to opt out of the City provided service they must apply to opt out annually by providing the City with: a copy of a pre-paid service contract with another service provider licensed in the City for the subject property; a receipt showing that the existing City contractor's container was returned to the City's contractor in good condition; and, evidence that the container used by the new service contractor complies with the City's container specifications and requirements referenced in section 94-26. Any approvals to opt out must be renewed annually.
- (b) The City shall make residential refuse collections from within the limits of dedicated street rights-of-way in accordance with regulations and schedule issued by the director of public works. The director of public works or his designee may designate or authorize residential refuse collections and commercial garbage collections from other locations

when in his judgment the public interest may be served. Such collections shall be made in accordance with rules and regulations established by the director of public works to meet the particular situation.

- (c) City collection shall be limited to garbage and refuse generated within the corporate limits of the city only. City collection shall be limited to garbage and refuse generated at the property where it is collected. Owners, agents, lessees, tenants and/or occupants may not move waste from one property to another prior to setting this waste out for city collection. This collection is not to be used or taken advantage of by nonresidents of the city. This collection is not to be used or taken advantage of by Pontiac property owners, lessees, tenants and/or occupants of Pontiac properties that do not qualify for city collection. Any owner at the place of pickup allowing waste to be deposited on his property that was generated elsewhere, for collection purposes shall be subject to sanction as provided in this article. Any waste generator, of waste generated elsewhere, depositing waste at a Pontiac place of pickup for collection purposes shall be subject to sanction as provided in this article.
  
- (d) The owner, agent, lessee, tenant and/or occupant of any house or apartment of four or less units that does not qualify for city provided collection for any reason and/or generates any waste type, weight or quantity that does not qualify for city provided collection for any reason shall arrange for and cause that generated waste to be collected and disposed of from that location on a weekly basis or in a frequency determined by the director of public works to be in the best interest of public health and safety.

**94-31 Disposal of refuse.**

- (a) The owner or occupant of a residential unit or units, housing development, apartment or building complex, or commercial or industrial establishment shall dispose of refuse by any or all of the following options:
  - (1) Utilizing the refuse collection service offered by the City, where unit is a house or an apartment building of four or less units, and by adhering to the provisions of this chapter;

- (2) Utilizing the services of a commercial waste collector for collection of waste materials and other materials not acceptable for collection, disposal, processing, or transfer by the collection service provided by the City, or for collection from commercial establishments, industrial establishments, mobile home parks, or other establishments not serviced by the collection service provided by the City. However, any such materials shall be transported, handled, processed and/or disposed of in accordance with all applicable laws and regulations.
  - (3) In the event the owner or occupant of a residential unit or units, apartment of four or less units from which refuse is generated uses the City-provided collection service and also utilizes the services of another commercial refuse collector in addition to the refuse collection service provided by the City, such owner or occupant shall still be required to pay the Solid Waste Disposal System Fees.
- (b) No person shall transport refuse to a city park or any other property located within the corporate limits of the city, other than to an approved disposal facility, material recovery facility, processing facility, and/or transfer station which is specifically designed and installed for their use.
  - (c) Under emergency conditions, the director of public works may designate locations on city properties where Pontiac residents may deposit designated materials for the duration of the emergency.

(Ord. No. 2203, 9-21-06)

#### **94-51 A fee(s), for municipal solid waste collection**

In addition to any property tax mileages used to fund, in part, the costs of the administration of solid waste services in the City, a fee(s) for municipal solid waste collection, disposal and disposition shall be charged to those owners of property from which refuse is generated and who use the City provided refuse collection services under the terms of this article (“Solid Waste Disposal System Fee”). Any owner who has opted out of the City service as provided in this ordinance shall not be required to pay as provided for in this section



**94-54 Solid waste disposal system fee; charged when.**

The Solid Waste Disposal System Fee shall be charged against each residential unit or apartment of less than four units generating refuse and using the Solid Waste collection services supplied by the City and the Solid Waste Disposal System Fee shall be paid to the City by the owners thereof.

**94-55 Fiscal budget.**

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 generating refuse and who use the solid waste collection services provided by the City 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 for the fiscal year to be assessed against the applicable premises on either the July or December tax rolls. Notwithstanding the timing of the assessment, the premises shall be responsible for covering the cost of the service already received during the fiscal year.

**94-59 Payment security; lien.**

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 generating refuse and who use the services of the Solid Waste Disposal System supplied by the City. 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 article shall have priority over all other liens except for taxed and special assessments and shall have equal priority with other liens imposed for City-supplied municipal services.

B. Sections 94-61 through 94-64 of the Code of Ordinances shall be deleted in their entirety.

**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. Publication**

The Clerk shall publish this Ordinance in a newspaper of general circulation.

**Section 6. Effective Date**

This Ordinance shall be effective ten days after date of adoption.