



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

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Pontiac, Michigan 48342
Telephone: (248) 758-3133
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Dated: May 6, 2013

ORDER NO. S-266

RE: **Adopt ordinance to regulate weeds**

TO: ✓ Sherikia Hawkins, City Clerk
Charles Smith, Project Manager, Wade Trim

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 May 1, 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 Detroit News on May 3, 2013; and,

WHEREAS, the Emergency Manager at a public meeting on May 6, 2013 announced that he is adopting the proposed ordinance.

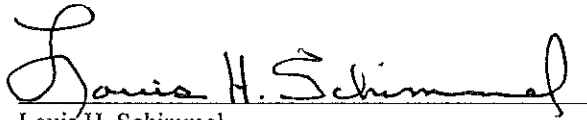
It is hereby ordered:

1. That the attached Ordinance No. 2282, an ordinance to regulate weeds, 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. 2282

An ordinance to regulate weeds.

The City of Pontiac ordains:

Section 1. Amendments.

Chapter 122, Article III, of the Code of Ordinances shall be amended to read as follows:

122-71 Dense Noxious Growth Prohibited

- (a) No owner of any parcel of land within the city or the agent of such owner shall permit on such parcel of land or upon any sidewalk abutting the same, or upon that portion of any street or alley adjacent to the same between the property line and the curb or traveled portion of such street or alley, any growth of weeds, grass, or other rank vegetation to a height no greater than eight (8) inches on the average, or any accumulation of dead weeds, grass, or brush. Nor shall such owner or agent permit on such land poison ivy, ragweed, or any other poisonous, noxious, or unhealthful growths.
- (b) On private property no turf grass shall be permitted at a height greater than eight (8) inches.

122-72 Cutting Required

After the first day of April in any year, the Director of Community Development or his designee is authorized to notify the owner, occupant, agent or other person having control or management of any land of any parcel of land to cut, destroy, and/or remove the material and vegetation referred to in section 122-71, and to keep it cut, destroyed and/or removed until the thirty-first day of October next following the giving of the notice.

122-73 Responsibility for Abatement of Poisonous, Injurious, or Noxious Weeds and Tall Grass;

- (a) The owner of any property is responsible for the abatement of any weeds or plant growth declared to be a public nuisance as set forth in section 122-71. It shall be prima facie evidence of ownership where a corporation, partnership, or individual is listed as owner of the property in the tract index. In the absence of a written agreement to the contrary between the owner and any other person, the owner shall be responsible for abatement under this section.
- (b) For the purposes of this article, the property lying between the outermost edge of the street right-of-way and the street curb, or the drainage course paralleling the street where there is no curb, shall be deemed to be the responsibility of the person responsible under this article for the property abutting the street right-of-way; provided, that such person shall not be responsible for dead, dangerous, diseased, or insect-infected trees located on such right-of-way.
- (c) In any case in which the owner, occupant, agent or other person having control or management of any land allows the presence thereon or on any portion thereof of any weeds, brush or other plant growth which constitute a violation of section 122-71, the Department of Building and Safety shall notify by mail, the owner, occupant, agent, or person having control of the land on which such weeds, brush, or other plant growth are growing to abate the violation within ten (10) business days.

122-74 Enforcement and Abatement of Nuisance.

- (a) If private property, a lawn extension or city right-of-way is not maintained as required by this chapter, the Director of Community Development or his designee may have the work done to bring the property lawn extension or city right-of-way into compliance.
- (b) The notice provided for enforcement of section 122-71 shall be sent to the address of the owner as shown on the assessor's records at least 10 days prior to commencing the work. In the case of an immediate hazard to public safety no prior notice shall be necessary.

122-75 Notice of abatement; contents.

- (a) The city department abating the nuisance defined in section 122-71 shall cause periodic inspections. When a violation of section 122-71 or section 122-72 is observed, those persons having ownership or other interest in or custody of the lands, as disclosed by the records of the Oakland County Assessor, shall be notified by mail addressed to the last known address of such persons concerned with the lands contained in the records of the Oakland County Assessor.
- (b) The notice to abate a nuisance under this article shall set forth:
 - (1) The description of the lands found to be containing violations of this article;
 - (2) The nature of the violations;
 - (3) The corrective action to be taken; and
 - (4) The time by which the corrections are to be completed, such time not to be less than ten days from the date of mailing the notice.
- (c) The notice shall further advise such persons of the provisions contained in this article for the city to abate the nuisance and that the cost thereof will be charged to such persons connected with the land or assessed such lands.

122-76 Notice by publication.

In lieu of the notice provided for in section 122-75, the city department responsible for dense noxious growth abatement may cause a notice to be in a newspaper of general circulation in the county, stating that dense noxious growth is prohibited and must be abated, destroyed or removed by the person responsible for the property beginning May 1, and continuing throughout the months of October 31 of that year, and that failure to do so will result in the city causing the abatement, destruction or removal of the nuisance and the cost thereof charged against the person responsible for the property. The notice shall contain methods of treating and eradicating the nuisance and a summary of the provisions of this article. The city may abate, destroy or remove the nuisance as many times as are necessary between May 1 and October 31 of the notice year and charge the cost to the person responsible for the property.

122-77 Failure to Abate Nuisance; City Removal, Costs.

- (a) If any person having the duty, through connection with lands as set forth in this article, to abate the nuisance set forth in sections 122-71 and fails or refuses to eliminate the nuisance after the notice procedures as contained in this article have been carried out, then the Director of the Department of Community Development or his designee shall cause the nuisance to be abated.

- (b) All of the costs incurred in the abatement of the nuisance under this article shall be the expense of the person responsible for the lands. The city department or division undertaking the abatement process under this article shall keep records of all expenses related to the abatement with costs assigned to each parcel of land or lots or property description and the person responsible for such lands. In addition, an administrative fee to be established by resolution of the City Council shall be added to each invoice issued to recover costs associated with the abatement.

122-78 Penalties.

- (a) The owner (as shown on the assessor's records) of private property subject to this chapter is responsible for compliance. Each violation of this chapter shall be a civil infraction punishable by a civil fine of up to \$500.00, plus costs and all other remedies available by statute. Violation of this chapter shall be punishable by a civil fine of not less than \$100.00 for the first offense, not less than \$300.00 for the second offense, and not less than \$500.00 for each additional or subsequent offense within a 2-year period, plus costs and all other remedies available by statute. The maximum fine for any offense shall not exceed \$500.00. Each day of violation shall be a separate violation.
- (b) All costs in connection with cutting, removing, destroying, trimming, eliminating or abating violations of this chapter shall be a lien upon the land where such nuisance shall have been caused by the city to be destroyed, cut, eliminated, removed, trimmed or abated, and all the costs of such abatement remaining unpaid each year, pursuant to provisions contained in the Charter of the city, shall be collected in the same manner that other special assessments are collected under the Charter.

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.

