

ORDINANCE NO. 25-53  
BY: Kim Bixenstine

Amending Sections 1415.01 and 1415.05 of the Housing Code of the Shaker Heights Codified Ordinances to modify requirements of the City's Point of Sale Program.

WHEREAS, the City's Point of Sale (POS) Program was initiated with the enactment of POS ordinances in 1976, and the POS escrow requirement was enacted in 2000; and

WHEREAS, Sections 1415.01 and 1415.05 of the Housing Code of the Shaker Heights Codified Ordinances regarding the POS Program were most recently amended in Ordinance 17-92, enacted on November 13, 2017; and

WHEREAS, the City has undertaken a review of its POS Program to improve its efficiency, promote equity, consistency, and transparency, and to address concerns raised by realtors, homebuyers, and the community, and Council considered proposed changes to the Codified Ordinances related to the POS Program at a work session on September 9, 2024; and

WHEREAS, the Director of Building and Housing has recommended that the POS requirements be modified as set forth in this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Sections 1415.01 and 1415.05 of the Housing Code of the Shaker Heights Codified Ordinances, as heretofore in effect, are hereby repealed.

Section 2. Sections 1415.01 and 1415.05 of the Housing Code of the Shaker Heights Codified Ordinances shall be enacted as amended, to read as follows:

1415.01 CERTIFICATE OF INSPECTION REQUIRED.

(a) The owner of improved real estate used or intended to be used for residential purposes shall obtain a certificate of inspection prior to selling, transferring, or conveying an interest or entering into an agreement to sell, transfer or otherwise convey an interest in such property, including the transfer of a property by land installment contract.

(b) No owner of real estate described in subsection (a) above shall sell, transfer or otherwise convey an interest or enter into an agreement to sell, transfer or otherwise convey an interest in such property, including by land installment contract, without first presenting the prospective purchaser or grantee with a copy of a certificate of inspection or a copy of a certificate of compliance issued by the Director of Building and Housing within ~~one year prior to the agreement.~~ twenty four (24) months of the issuance date of either the certificate of inspection, or certificate of compliance when no violations are identified at the initial inspection.

(c) In the event the real estate described in subsection (a) above is sold at Sheriff's sale or other court-ordered auction, or is transferred from a mortgagor to a mortgagee in lieu of foreclosure, or similar transaction, and no certificate of compliance has been issued within one year prior to such sale, the purchaser or transferee shall apply in writing to the Director

within thirty days after the date of sale or transfer for an inspection of the property, and shall otherwise comply with the requirements of this Chapter. The method of application and inspection shall be as set forth in Section 1415.02.

(d) This Chapter shall not apply to the individual transfer of property through inheritance, or by gift between family members, as defined in Section 1413.01 of the Housing Code, or between members of the same household, where no bona fide sale or arm's length transaction is intended or takes place, or to the sale, transfer, conveyance or purchase of City-owned or privately-owned residential real estate when the purchaser is an entity that has an agreement with the City under a City program to provide support for the purchase or the purchase and rehabilitation of such real estate.

(e) This Chapter, and all references in this chapter, to the sale, transfer, conveyance or purchase of residential real estate, shall apply to the sale, transfer, or conveying of all or a part of a business, partnership, corporation, limited liability corporation, or other legal entity that owns a property otherwise covered under this chapter to a different individual or individuals, or to a different entity or entities, such that the actual ownership, operation or control of a property is transferred, whether or not a property is managed or owned, in whole or in part, by the same person or persons, or entity.

#### 1415.05 CERTIFICATE OF INSPECTION OR COMPLIANCE; ESCROW; APPEAL.

(a) No person, agent, firm or corporation shall sell, transfer, convey, accept, obtain or purchase an interest in the title of improved residential real estate, including entering into a land installment contract for the sale or transfer of such a property, without complying with the point-of-sale requirements of this Chapter, including the establishment of an escrow account in the name of the transferee as required in this Section.

(b) No business entity, domestic or foreign, using a name other than an individual's own personal name, shall sell, transfer, convey, accept, obtain or purchase an interest in the title of improved residential real estate, including entering into a land installment contract for the sale or transfer of such a property, unless such entity is registered with the Ohio Secretary of State as required by Title XVII of the Ohio Revised Code of an entity in order to do business in the State of Ohio.

(c) Prior to the closing of a transfer of improved residential real estate, the ~~seller or~~ transferor shall provide the ~~purchaser or~~ transferee with a current certificate of inspection or a certificate of compliance, shall verify that sufficient funds have been deposited in escrow in the name of the transferee as required in this Section, and shall deposit in escrow a statement signed by the ~~purchaser or~~ transferee acknowledging receipt of the certificate of inspection or certificate of compliance, ~~which and such~~ statement shall list thereon the date the certificate was given to the purchaser and a copy of which shall be provided to the Building and Housing Department.

(d) Prior to the closing of a transfer of improved residential real estate, the ~~purchaser or~~ transferee shall have received a current certificate of inspection or a certificate of compliance, shall have designated in writing with the Building and Housing Department the name, address, and telephone number of an agent who is a resident of Cuyahoga County, pursuant to Section 1409.03, if the ~~purchaser or~~ transferee resides outside of Cuyahoga County at the time of closing and will not occupy the premises as a primary residence, and shall verify that sufficient funds have been deposited in escrow as required in this Section.

(e) Except as otherwise provided in this Chapter, if all violations listed on the certificate of inspection are not corrected prior to transfer of title or execution and recording of a land installment contract, funds shall be deposited in the name of the purchaser or transferee with an escrow

agent designated by the City, in an amount not less than one hundred dollars (\$100.00) and equal to one hundred fifty percent (150%) of the estimated cost of repairs, to pay for the cost to correct all remaining violations. The amount to be held in escrow shall be determined as follows:

- (1) The transferor or transferee shall procure a written estimate from a company currently registered under Chapter 547 of the Codified Ordinances (hereinafter referred to as a "qualified company").
- (2) The estimate shall be in good faith and shall reflect current market rates for labor and materials.
- (3) The cost of repairs shall be itemized, to the extent practicable, in a manner that relates to the point-of-sale violation list.
- (4) The Director of Building and Housing or the Director's designee shall determine whether the estimate complies with the requirements of this Section and may reject an estimate that fails to reasonably reflect the fair market cost of repairs.
- (5) If the Director of Building and Housing rejects an estimate as provided herein, the party submitting the estimate may provide the Director a new estimate that complies with the requirements of this Section. If the Director rejects an estimate, the Director may send a written notice of such rejection to the party submitting the estimate establishing the escrow.
- (6) If the party submitting the estimate establishing the escrow can demonstrate to the Director of Building and Housing that after a good faith effort they/he/she are-is unable to obtain a written estimate from a qualified company, or if the party submitting the estimate establishing the escrow makes a request to the Director, the Director may establish the amount of the escrow upon the payment by such party of the fee set forth in Section 1415.04.
- (7) The party submitting the estimate or the transferee (if a different party) establishing the escrow may appeal the decision of the Director to reject an estimate of the cost of repairs, or the amount of the escrow if it is established by the Director, to the Board of Appeals within thirty (30) days from the date of Director's written decision or estimate.
- (8) Any person(s) or entity(ies) may deposit funds to be held in escrow, but the escrow account must be established in the name of the transferee, and all funds in escrow shall be released to the transferee named on the account.

(f) A ~~purchaser or~~ transferee of a property requiring substantial rehabilitation, with the approval of the transferor ~~or seller~~ or a signed purchase agreement, may submit a request to the Director for a variance from the escrow requirement, to request a reduction of the required escrow amount of 150% of the cost of repairs to 100% of the cost. The Director may grant such a variance if the ~~purchaser or~~ transferee is a contractor that has been approved to participate in the City's Shaker Renovator Program, or if the ~~purchaser or~~ transferee has a signed contract with a contractor that is a participant in the Program. The Director of Building and Housing Neighborhood Revitalization is authorized to establish rules and regulations for a Shaker Renovator Program.

(g) A ~~seller or~~ transferor, or a ~~purchaser or~~ transferee, with the approval of the transferor ~~or seller~~ or with a signed purchase agreement, may submit an appeal to the Board of Appeals requesting a variance from the escrow requirements. In any such appeal, the appellant must demonstrate that:

- (1) Special circumstances exist necessitating a variance from the requirements in order to make the sale and repair of the property financially practicable,
- (2) The purchaser or transferee has the financial capability to repair the property in a reasonable period of time in order to bring it into compliance with the Housing Code; and
- (3) A variance is in the best interests of the City and its residents.

(h) Funds shall be disbursed only upon written authorization from the Director or the Director's designee. Authorization to release funds held in escrow pursuant to this subsection shall be granted upon the determination by the Director of Building and Housing that substantial progress has been made in correcting the violations and that sufficient funds will remain in escrow to correct all remaining violations.

- (1) If the funds held in escrow are ~~less than fivetwo~~ thousand dollars (\$~~25~~,000) ~~or less~~, no funds held in escrow shall be released until all violations are corrected.
- (2) If the funds held in escrow exceed two thousand dollars (\$2,000) but are equal to or less than five thousand dollars (\$5,000), the Director or the Director's designee may authorize one partial release of funds from escrow.
- (23) If the funds held in escrow exceed five thousand dollars (\$5,000) but are equal to or less than twenty thousand dollars (\$20,000), the Director or the Director's designee may authorize up to two~~one~~ partial releases of funds from escrow.
- (43) If the funds held in escrow ~~are equal to or~~ exceed twenty thousand dollars (\$20,000) but are equal to or less than forty thousand dollars (\$40,000), the Director or the Director's designee may authorize up to three~~two~~ partial releases of funds from escrow.
- (54) If the funds held in escrow ~~are equal to or~~ exceed forty thousand dollars (\$40,000) but are equal to or less than sixty thousand dollars (\$60,000), the Director or the Director's designee may authorize up to four~~three~~ partial releases of funds from escrow.
- (65) If the funds held in escrow ~~are equal to or~~ exceed sixty thousand dollars (\$60,000), the Director or the Director's designee may authorize up to five~~four~~ partial releases of funds from escrow.

(i) The Director may approve, in lieu of an escrow being established, a purchase-rehabilitation loan account established through a private or government lender by or for an owner occupant. The Director may require written evidence of the terms of the purchase-rehabilitation loan and other documentation that the Director determines is necessary to evaluate the substitution of the loan for a point-of-sale escrow account. In determining whether to approve the loan as a substitute for an escrow account, the Director shall consider all of the following: the City's experience with the lender in other purchase-rehabilitation loan situations, the lender's oversight and management of such loans, the amount of funds provided for improvements to the property beyond correction of the existing code violations, proof that sufficient funds are being held to pay for repairs to correct all point-of-sale violations, and any other factor that would tend to support a conclusion that the intent of the point-of-sale escrow provisions will be met by the structure and terms of the loan.

(j) In the event the purchaser or grantee of residential real estate, in a transaction covered by this Chapter, intends to demolish the structure or structures covered by a certificate of inspection, the escrow requirements of this Section shall be waived if the purchaser or transferee provides the City a performance bond or equivalent financial guarantee in a form satisfactory and approved by the Director of Law, issued to the City in an

amount reasonably calculated, as determined by the Director, to ensure that either the structure or structures are demolished or the violations listed on the certificate of inspection are corrected.

(k) No escrow or bond shall be required if the City is the ~~purchaser~~ ~~or~~-transferee of the property, whether the property is intended to be repaired or demolished.

(l) If all repairs to a property required on a Certificate of Inspection are not completed within a reasonable period of time, as determined by the Director or the Director's designee, or if a property with an open escrow account is found to have additional Housing Code violations or nuisance conditions, the City may withdraw such funds from the escrow account as shall be necessary to pay for the completion of the repairs or demolition of the property, or to abate a nuisance condition, as the City determines to be necessary. The City shall provide written notice to the owner and any lessee or party in control of a property, and to the party that established the escrow, at least thirty days prior to the City's withdrawal of funds from the escrow account.

Section 3. The amendments to Sections 1415.01 and 1415.05 enacted by this ordinance shall be effective for any escrow account existing as of the effective date of this ordinance, except the changes to 1415.01 shall not cause any point of sale certificate of inspection to expire sooner than it would have but for the change to said section, and any escrow account established prior to the effective date of this ordinance in the name of a party other than the transferee shall remain in the name of the party that established the escrow account. If a new point of sale application has been submitted and new inspection performed that would not otherwise have been required under the amendments of this ordinance because it was within 24 months of the initial issuance of a certificate of inspection or compliance, any new violations identified will still stand. If the point of sale violations for a property were corrected and the City issued a written notice acknowledging the correction of the violations, that property will be considered to have received a certificate of compliance.

Section 4. This ordinance shall take effect from and after the earliest time allowed by law.

Enacted April 28, 2025

Approved this \_\_\_\_ day of \_\_\_\_\_, 2025.

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DAVID E. WEISS, Mayor

Attest:

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JERI E. CHAIKIN  
Clerk of Council