

Chapter 5.75
RENTAL LICENSING AND INSPECTION

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5.75.010 010 Statement of Purpose.

- A. The purpose of this Chapter is to protect the public health, safety and general welfare of the residents of Overland Park in Rental Dwellings. The further intent of this Chapter is to:
 - 1. Promote safe living conditions and a well-maintained community;
 - 2. Protect the character and stability of residential areas;
 - 3. Correct and prevent housing conditions that adversely affect or are likely to adversely affect the safety, health and welfare of residents of rental properties;
 - 4. Preserve the value of land and buildings throughout the City;
 - 5. Enforce minimum standards for the exterior maintenance of residential buildings and property;
 - 6. Protect the public from increased criminal activity that tends to occur in residential areas that are unstable due to Dwellings that are blighted or substandard; and
 - 7. Provide a mechanism for enforcement and the administration of the City Code to ensure that the above purposes are accomplished.
- B. It is not the intent of the City to intrude upon contractual relationships between tenant and landlords; nor does the City intend to intervene as an advocate for either party, to act as an arbiter, or to hear complaints by landlords or tenants which are not specifically and clearly related to the provisions of this Chapter.

(History: Ord. RLI-3120 §1, 2016)

5.75.020 Definitions.

As used in this Chapter, the following terms shall have these prescribed meanings:

“Director” – The Director of Planning and Development Services or the Director’s designee.

“Dwelling” – A building or structure that contains one or more Dwelling Units or Rooming Units intended or designed to be used or occupied for living purposes.

“Dwelling Unit” – A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

“KC Metropolitan Area” – The area defined by the Kansas City Metropolitan Statistical Area (KCMSA).

“Manager” – Any person who, alone or jointly or severally with others, shows Rental Dwellings to prospective Occupants and/or enters lease agreements on the Owner's behalf, and/or receives Rent from Occupants, and/or is responsible for, or arranging for, maintenance of a Rental Dwelling.

“Occupant” / “Tenant” – Any individual living or sleeping in a Rental Dwelling, or having possession of a space within a Rental Dwelling.

“Owner” – Any Person having a legal or equitable interest in the property; or recorded in the official records of the county as holding title to the property; or otherwise having control of the property; including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

“Owner’s Agent” – The Person designated by the Owner to be the agent required by Section 5.75.060 A.5.

“Person” – Any individual, firm, corporation, association, partnership, cooperative or governmental agency.

“Premises” – A lot, plot or parcel of land, easement or public way, including any structures thereon.

“Rent” – Payments of cash or other forms of consideration made periodically by an Occupant to an Owner, Owner’s Agent or Manager in return for the use of a Rental Dwelling.

“Rental Dwelling” – A Dwelling, or portion of a Dwelling, designed for or used for human habitation and offered for Rent.

“Rental License” – A license issued by the City permitting a Rental Dwelling to be rented and/or occupied by Persons other than the Owner and the Owner’s immediate family, and subject to the terms set forth in this Chapter.

“Rooming Unit” – Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.
(History: Ord. RLI-3120 §2, 2016)

5.75.030 Applicability.

- A. Applicability – The provisions of this Chapter shall apply to all Rental Dwellings as defined by this Chapter. One (1) Rental License shall be issued for each Rental Dwelling building under common ownership and shall be deemed to cover all units therein under common ownership. In the event any Rental Dwelling building has different ownership for different units therein, each Owner shall be required to obtain a separate Rental License. *(For example, if each Dwelling Unit of a Duplex is owned by separate Owners, each Owner must obtain a separate Rental License.)*
- B. Exemptions – The provisions of this Chapter shall not apply to the following, or to other uses that, in the sole discretion of the Director, are similar:
1. Hotels and motels licensed by the State of Kansas;
 2. Convents;
 3. Monasteries;
 4. Parish houses or rectories;
 5. Mosques;
 6. Temples;
 7. Synagogues;
 8. Hospitals;
 9. Nursing homes and assisted living facilities; and
 10. Jails.
- C. City Authority – The City shall have authority to exercise its powers under this Chapter including the power to issue, renew, deny, revoke or suspend a Rental License; and to declare a Rental Dwelling in violation of this Article. These powers shall apply to any Rental Dwelling, in whole or in part.

(History: Ord. RLI-3120 §3, 2016)

5.75.040 Rental License Requirement.

On and after July 1, 2017, the City will begin the process of issuing Rental Licenses. Upon notification, Owners of Rental Dwellings are required to make application for a Rental License and to secure such license. On and after July 1, 2019, no Person shall allow to be occupied, offer for Rent or rent to another for occupancy any Rental Dwelling unless the Owner has first obtained a Rental License under the terms of this Chapter.

(History: Ord. RLI-3120 §4, 2016)

5.75.050 Rental Licensing Standards.

The following standards and conditions shall be met in order to hold a Rental License under this Chapter:

- A. The Rental License fee and any re-inspection fee (if any) must be timely paid.

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- B. Information contained in the application shall remain current throughout the term of the Rental License, or be updated within thirty (30) days after any changes.
- C. The Rental Dwelling shall not be declared or found to be dangerous or unsafe for human habitation or condemned as hazardous or unfit for human habitation under applicable City Code or Kansas Statute.
- D. The Rental Dwelling and Premises shall remain in compliance with all City Codes materially affecting health and safety, or zoning regulations.
- E. Business entities required to register with the Secretary of State shall remain in good standing with the Secretary of State and with the State of Kansas.

(History: Ord. RLI-3120 §5, 2016)

5.75.060 Application For Rental License; Rental License Fee.

- A. Application – The Owner of each Rental Dwelling shall make written application to the City on a form furnished by the City for such purpose. The Application shall include the following information:
 - 1. Address identifying the location of the Rental Dwelling to be licensed;
 - 2. Number of Rental Dwellings on Premises;
 - 3. Owner’s information (as required by subsection B.);
 - 4. Manager’s information (as required by subsection B.);
 - 5. If the Owner resides outside the Kansas City Metropolitan Area, or is a business entity without an office in the Kansas City Metropolitan Area operating with regular business hours, the Owner shall designate an Owner’s Agent who shall reside in the Kansas City Metropolitan Area or which is a business entity having an office in the Kansas City Metropolitan Area with regular business hours. The Owner’s Agent information shall be provided as required by subsection B. By designating an Owner’s Agent, the Owner is affirming that the Owner’s Agent may accept service on behalf of the Owner of all Notices to the Owner set forth this Chapter. If an Owner’s Agent is terminated, dissolves, resigns or is otherwise unable or unwilling to serve as the Owner’s Agent, the Owner shall designate a new Owner’s Agent within thirty (30) days thereof. If the Owner fails to designate an Owner’s Agent as required by this Section, the City may take action to deny, revoke, or suspend the Owner’s Rental License pursuant to Section 5.75.100; and
 - 6. The signature of the Owner, declaring under penalty of perjury that the information contained in the Rental License application is true and correct. If the Owner is a business entity, the signature of an authorized partner or officer shall be provided. (Electronic signatures in compliance with K.S.A.16-1607 are acceptable.)
- B. Owner, Manager and Owner’s Agent information shall be provided as follows:
 - 1. If the Owner, Manager or Owner’s Agent is a natural person, he or she shall provide a full name, date of birth, residence address, telephone number and email address.

2. If the Owner, Manager or Owner's Agent is not a natural person, but is a corporation, limited liability corporation, nonprofit corporation, limited liability partnership, limited partnership, foreign business or any other legal or commercial entity which is required to register with the Secretary of State, the application shall include the following for each Owner, Manager or Owner's Agent, as applicable:
 - a. Full legal name of the entity;
 - b. Business address, telephone number, and email address;
 - c. The name, date of birth, residence address, telephone number and email address of a partner or officer responsible for the Rental Dwelling; and
 - d. Name, address and telephone number of the entity's registered agent;
 3. A post office box will not be accepted for any address required in this subsection.
- C. Rental License Fee – No application shall be considered complete without full payment of the required Rental License fee. The full amount of the Rental License fee shall be required regardless of the time of year in which the application is made. There shall be no refund or waiver in any case when a licensed Rental Dwelling is no longer offered for Rent prior to the end of the licensing term, or when the Rental License is revoked as provided for under this Chapter. A fee schedule pertaining to residential Rental License fees shall be adopted by ordinance, resolution, or as otherwise permitted.

(History: Ord. RLI-3120 §6, 2016)

5.75.070 Issuance; Renewal.

- A. Issuance – Upon satisfaction of all application, fee payment and inspection requirements, the City shall issue a Rental License to the Owner, unless the Rental License is or has been otherwise denied, refused, revoked or suspended pursuant to Section 5.75.100. The Rental License shall provide the license number, license expiration date, Rental Dwelling address(es), and identity of the Owner and, as applicable, the Manager and Owner's Agent.
1. The issuance of a Rental License shall not be construed to be a license for, or an approval of, any violations of any of the provisions of this Chapter or of any other City Code.
- B. Renewal – All Rental Licenses issued under this Chapter shall be renewed prior to the expiration date indicated on the Rental License. Licenses are initially issued and then renewed biennially (once every two years). All Owners shall apply for renewal on a form provided by the City. No renewal shall be granted without payment of the required Rental License fee.

(History: Ord. RLI-3120 §7, 2016)

5.75.080 Rental License Not Transferable.

- A. A Rental License issued hereunder is not transferable to a new Owner.

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- B. When an Owner conveys title to a Rental Dwelling to another, the Owner conveying title shall, on or before the day of such transfer, notify the City in writing of the name, address and phone number of the new Owner.
 - C. A new Owner shall submit an application for a Rental License in accordance with this Chapter (including Rental License fee) no more than thirty (30) days from the date of taking title to the property, provided a Rental License is still required for the property.
- (History: Ord. RLI-3120 §8, 2016)

5.75.090 Duties of Licensee.

- A. Every Rental Dwelling licensee shall notify the City (in writing or via the City's on-line registration) of any change of information contained in the last Rental License application filed with the City within thirty (30) days after the changed information.
 - B. The Owner of a Rental Dwelling shall, prior to the time of sale of the Rental Dwelling, notify the buyer in writing of all unabated orders and violation notices issued by the City for the Rental Dwelling, as well as the requirement that the Rental Dwelling, upon acquisition by a new Owner, must be licensed with the City. A copy of the notification shall be provided to the City within five (5) days of providing the notification to the buyer. Time of sale is the time when a written purchase agreement is executed by the buyer or, in the absence of a purchase agreement, upon the execution of any document providing for the conveyance of the Rental Dwelling.
- (History: Ord. RLI-3120 §9, 2016)

5.75.100 Denial, Revocation or Suspension of Rental License.

After issuing notice and giving an opportunity to be heard, the City may deny, suspend or revoke a Rental License as follows:

- A. Notice – The City will issue written notice to the Owner that the Rental License will be denied, suspended or revoked and the reason(s) therefore, unless the Owner makes a timely request for a hearing by filing a hearing request within ten (10) calendar days after being served said notice. The notice of denial, revocation or suspension shall be served upon the Owner in person or by certified mail. It shall not be a defense to any administrative action taken that the Owner did not receive the notice, provided it was served in compliance with the information on file from the last rental application (or any supplement thereof). The notice shall provide:
 - 1. The effective date of the denial, suspension or revocation and the address(es) or other identifying criteria of the Rental Dwelling(s) affected by the denial, suspension or revocation;
 - 2. The specific reasons for the denial, revocation or suspension, including copies of any applicable inspection reports;
 - 3. A statement that any rental of the Rental Dwelling while the Rental License is denied, suspended or revoked may subject the Owner to prosecution; and
 - 4. A description of how to request a hearing as set out below.

- B. Hearing Request – Any request for hearing shall be in writing and shall set forth in sufficient detail why the Owner believes that City's Notice of Denial, Suspension or Revocation was issued in error, or why the proposed action is excessive, inappropriate, or unreasonable. The request for hearing will be filed with the Director, and shall stay any administrative enforcement action under this Chapter until the Director has issued a final order. If the Owner fails to make a timely request for a hearing, the Director shall deny, suspend or revoke the Rental License in accordance with the notice.
- C. Hearing – Upon receipt of a timely request for a hearing, the Director shall set the matter for hearing before the Director (or designee). After the hearing, the Director has the authority to deny, revoke or suspend the Rental License if:
1. There are City Code violations on the Premises; or
 2. The Owner has failed to comply with any requirements of this Chapter.
- D. Appeals – Persons aggrieved by a decision of the Director may appeal as set out in Section 5.75.130.
- E. Dangerous or Unsafe Conditions – Notwithstanding the procedure for denial revocation or suspension set out above, whenever a Rental Dwelling is determined by the Code Official to be dangerous or unsafe pursuant to applicable City Code or Kansas Statutes, the Rental License shall immediately be suspended on the effective date of said determination, and the Rental Dwelling shall not be occupied until after an inspection by the Code Official and approval of the remedy of any conditions that caused the dangerous or unsafe condition.

(History: Ord. RLI-3120 §10, 2016)

5.75.110 Rental Inspection Program.

- A. Exterior Inspection – Prior to the issuance of a Rental License or any renewal thereof, the City shall conduct an exterior inspection of the Premises to determine compliance with this Chapter. Thereafter, exterior inspections may be conducted with such frequency as the City, in its sole discretion, determines to be necessary or feasible.
1. Exterior inspections may include an inspection of the exterior of all buildings on the Premises and all common areas.
 2. Exterior inspections shall be conducted by the City at all reasonable hours, and may be conducted with or without notice to the Owner, Owner's Agent, Manager or Occupants.
 3. The City shall develop an inspection protocol and standard inspection checklist for all exterior inspections and shall ensure that the inspections are minimally intrusive. At the time of the issuance of a Rental License pursuant to this Chapter, the City will provide the licensee with information on the minimum code requirements for exterior maintenance of Rental Dwellings. Nothing contained herein, or in the information provided to licensees, shall be construed to relieve the Owner or Occupants of responsibility for compliance with all applicable City Codes.

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- B. Notice of Violation – If an exterior inspection reveals Code violation(s), the City shall serve a Notice of Violation upon the Owner or the responsible Person under the requirements of the applicable City Code.
- C. Non-compliance – Failure to correct any violation(s) by the corrective action date set forth in a Notice of Violation may result in the revocation or suspension of the Rental License and/or municipal court prosecution, as well as abatement of the violation by the City and assessment of associated charges when permitted by City Code or Kansas Statute.
- D. Right of Entry – If entry onto the Premises for purposes of inspection is refused, the City shall have recourse to every remedy provided by law to secure entry, including but not limited to, application for an administrative search warrant.

(History: Ord. RLI-3120 §11, 2016)

5.75.120 Notices.

Unless personal or certified mail is specified, notices required by this Chapter shall be deemed sufficient when sent by first class mail to the address(es) specified in the last Rental License application filed (or any supplement thereof). If the Rental Dwelling is not licensed pursuant to this Chapter, notice is deemed sufficient if sent by first class mail to the Owner's address of record with the Johnson County Department of Records and Tax Administration. Notices so mailed are sufficient whether actually received or returned.

(History: Ord. RLI-3120 §12, 2016)

5.75.130 Administrative Appeal Procedure.

- A. Following any denial, suspension or revocation of a Rental License (including a renewal) by the Director as outlined in Section 5.75.100, an Owner may appeal on the issue of whether the Rental License was properly denied, suspended or revoked. The Owner shall submit a written request for appeal to the City Clerk within ten (10) calendar days from the date of the final notice of denial, suspension or revocation. The request shall contain a statement of the grounds for the appeal. The appeal shall be conducted within seven (7) business days of receipt of the written request, unless extended by the City for good cause shown.
- B. The appeal shall be conducted by an appeals officer designated by the City Manager. The appeals officer shall consider and review all relevant evidence and argument.
- C. The scope of the appeal shall be limited to whether the City's denial, suspension or revocation of the Rental License was within the scope of its authority, supported by substantial competent evidence, and not arbitrary or capricious. The review shall be informal and not subject to the rules of civil and/or criminal procedure.
- D. The appeals officer shall render a written decision no later than ten (10) business days after the review, unless extended by the City for good cause shown, and may affirm, modify or reverse the action by Director. The written decision may be personally served upon the Owner or mailed first class to the Owner's address specified in the last Rental License application filed (or any supplement thereof).

(History: Ord. RLI-3120 §13, 2016)

5.75.140 Unlawful Operation of Rental Dwelling.

- A. It shall be unlawful for any Person to fail to comply with any provision of this Chapter. A Person who allows to be occupied or rents to another any Rental Dwelling without a Rental License as required by this Chapter is guilty of a misdemeanor punishable as provided in Section 1.12.010 of the Overland Park Municipal Code. Each day that a Person fails to comply, or fails to maintain a Rental License as required by this Chapter, shall constitute a separate offense.
- B. Whenever a Rental Dwelling has been rented without a Rental License, the City may serve a Notice of Violation upon the Owner by personal service or by certified mail to the address of record with the Johnson County Department of Records and Tax Administration. The Notice of Violation shall provide notice of the following:
 - 1. The Rental Dwelling has been rented without a Rental License;
 - 2. The Owner must obtain a Rental License by a date certain in order for the Rental Dwelling to remain occupied;
 - 3. A statement that any rental of the Rental Dwelling or the affected Dwelling Units while the Rental License is revoked or suspended may subject the Owner to prosecution; and
 - 4. Each day that the Owner fails to obtain a Rental License as required by this Chapter shall constitute a separate offense and is punishable as provided in Section 1.12.010 of the Overland Park Municipal Code.
- C. If the Owner fails to comply with the Notice of Violation, the City may issue a Notice to Appear, setting a date and time for appearance in Municipal Court. In addition, the City may prominently post a notice on the affected Premises indicating that:
 - 1. The Rental Dwelling is not licensed and is in violation of Chapter 5.75 of the Overland Park Municipal Code;
 - 2. A statement that any rental of the Rental Dwelling or the affected Dwelling Units while the Rental License is revoked or suspended may subject the Owner to prosecution; and
 - 3. It shall be unlawful for any Person to deface or remove a posted notice from an unlicensed Rental Dwelling. The unlawful removal of a posting shall constitute a public offense, punishable as provided in Section 1.12.010 of the Overland Park Municipal Code.
- D. It shall be unlawful for any Person to deface or remove a posted notice from an unlicensed Rental Dwelling. The unlawful removal of a posting shall constitute a public offense, punishable as provided in Section 1.12.010 of the Overland Park Municipal Code.

(History: Ord. RLI-3120 §14, 2016)

5.75.150 Remedies in This Chapter Are Not Exclusive.

The remedies provided in this Chapter are not exclusive. They are in addition to and do not supersede or preempt other remedies such as condemnation, written violation orders and

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warnings and criminal charges for violation of substantive provisions of any City or State Code relating to housing maintenance, fire safety, building codes, zoning, health and the like. Further, the remedies in this Chapter do not supersede or affect the legal rights and remedies of landlords or tenants provided under State law.

(History: Ord. RLI-3120 §15, 2016)

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