

# **Performance Audit: Rental Housing Licensing Program**

**February 2012**

City Auditor  
City of Lawrence, Kansas

February 23, 2012

Members of the City Commission

The city created a limited rental licensing program in 2001. The program is small, covering a small portion of rental housing and operating with limited resources. Planning and Development Services administers the program and generally addresses good practices for a rental housing program.

I make four recommendations intended to:

- strengthen the programs' practices
- provide additional information to the City Commission and public
- reduce the portion of the program paid for through general taxes
- seek direction about portions of town exempted from the licensing requirement in 2006.

I provided the City Manager and the Director of Planning and Development Services with drafts of this report on January 31, 2012. The City Manager's written response is included in the report.

I appreciate the cooperation and assistance I received from staff in the Planning and Development Services Department as I conducted this performance audit.

Michael Eglinski  
City Auditor

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# Performance Audit: Rental Licensing and Inspection

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# Performance Audit: Rental Licensing and Inspection

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## Results in Brief

The city created a limited program to license and inspect rental housing in 2001. The program should help protect tenant's safety and maintain neighborhood conditions. Owners of rental properties in certain parts of town must license those properties with the city and pay \$25 a year. City staff inspects licensed rentals at least once every three years.

The city's program focuses narrowly on rental housing in certain parts of town. Only about 10 percent of rental housing requires licenses.

The city generally addresses good practices for rental licensing and inspection programs, though some changes could strengthen the city's practices. The City Auditor recommends:

- Writing policies and procedures
- Measuring and reporting on performance
- Increasing fees to reduce the general tax revenue support for the program

When the city adopted the 2006 development code, some parts of town that had required licenses became exempt. The City Manager should seek direction from the City Commission about whether the city should continue exempting these areas.

The City Manager's written response to the recommendations is included on pages 19-21.

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## Performance Audit: Rental Licensing and Inspection

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### Lawrence established a limited rental licensing and inspection program

The city licenses and inspects certain rental housing to:

- enhance safety of tenants; and
- encourage nuisance free and peaceable neighborhoods.

Rental licensing provides the city with opportunities to inspect properties and educate both landlords and tenants about their responsibilities. Standards for the condition of rental properties and inspections help ensure that property owners maintain their properties.

#### Why cities regulate rental housing

When cities regulate rental housing, they generally intend to address:

- Improving compliance with codes related to health, safety and neighborhood conditions;
- Sustaining single family neighborhoods; and
- Helping ensure property owners are current on tax and utility payments.

The Planning and Development Services Department devotes one position to the inspection program, with some additional staff support for supervision and administrative support. The inspector focuses on rental housing, but also has some other duties. In 2011, the program licensed about 1,600 rental properties at a fee of \$25/property.

Owners of rental properties located in RS zoned areas must license those properties with the city. See Figure 1 for a map showing RS area. To get a license, an owner completes a one-page application form and pays a \$25 fee. The city inspects licensed properties at least once every three years.



The zoning-based focus may make it harder for owners to understand whether or not a property must be licensed. Some owners licensed properties that don't require licensing because they were located outside of RS zoned areas. Comparing the zoning map with the list of licensed properties identified 29 properties currently licensed but outside of RS zones. The city hasn't established a systematic process to check license applications for zoning. If an owner asks about zoning before submitting an application, then staff will check the zoning and let the owner know if a license is required.

The zoning-based focus also results in "border effects" where zoning changes. Two houses may be next to each other or across a street or alley, but in different zoning categories. Properties that are otherwise very similar have different licensing requirements.

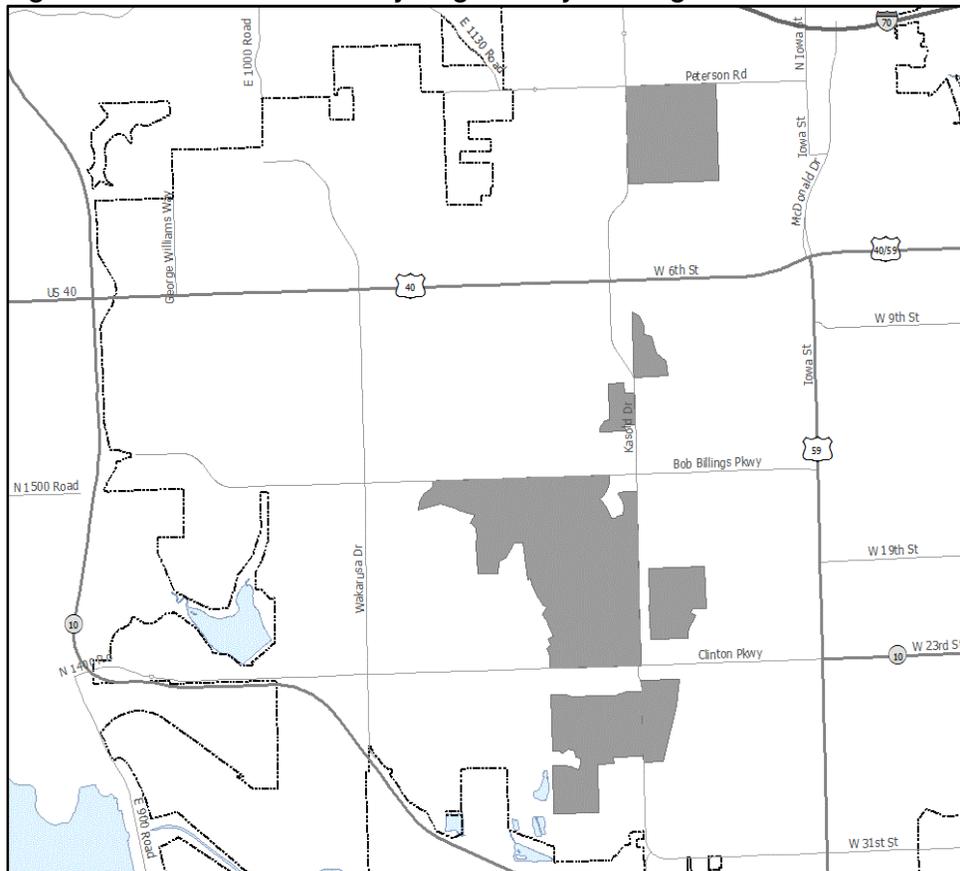
**City excludes most rental housing by design.** In creating the city's registration and inspection program, the city found that rental housing outside of RS zoned areas was already subject to sufficient regulation through the planning processes that take place before rental housing is built. In addition, before the 2012 change to the ordinance, the city didn't require licenses for buildings designed for or used by more than two families or housekeeping units. That requirement excluded a significant number (about 140 properties) of rental units from the licensing requirement.

**2006 Development Code adoption excluded areas previously included in rental registration.** When the City adopted the 2006 Development Code, several areas that had been RS zoned fell under another zoning category called PUD. Single family residential housing make up most of those PUDs, but rental housing does not require registration in these areas. See figure 2. As a result, the change in zoning meant that a property that would have required registration in 2005, no longer required registration. About 1,400 parcels with single family homes are in the PUD areas that used to be zoned RS.<sup>1</sup> Assuming a similar ratio of licensed rentals to single family homes, about 160 properties in PUDs would have required licensing before the change to the development code.

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<sup>1</sup> To put this in context, currently RS zoned areas include almost 15,000 parcels with land use of single family residential.

**Figure 2 PUD zones with mostly single family housing**



**Inspections address major areas of concern.** The city's program addresses neighborhood conditions and the health and safety of rental housing. Inspections focus on the property maintenance and environmental codes. These codes address a variety of conditions, including:

- Abandoned vehicles
- Furniture in yards and porches other than outdoor furniture
- Garbage and trash
- Deteriorated, dilapidated or dangerous structures
- Unsafe electrical equipment
- Emergency egress

**Some other communities have rental programs.** Rental registration or licensing programs are common, but not universal, in communities similar to Lawrence.<sup>2</sup> Seven of 15 communities similar to Lawrence have established rental programs, and one requires rental business tax

<sup>2</sup> All 15 of the similar cities have significant university presence. See Scope, methods and objectives for more information on the cities.

payments. Seven of the 15 communities do not require registration or licensing.

Most similar city programs have broader coverage than Lawrence. Lawrence's program is limited to certain rental housing in areas with RS zoning. All but one of the other cities require registration or licensing for all rental properties. One similar city only requires registration for rental properties with fewer than three units.

A number of area cities have rental programs. Nearby Kansas cities with programs include: Lenexa, Overland Park, Leavenworth, Roeland Park, Prairie Village, Westwood, Merriam, Leawood, and Kansas City. Manhattan established a rental licensing and inspection program in 2009, but eliminated the program in 2011.

**Staff recommended expanding the scope of the rental licensing and inspection program.** As part of the 2009 budget process, the city considered expanding the program to include rental properties constructed 50 years ago or older and increasing the licensing fee to \$40 per year. When the expansion was up for consideration, the City Manager recommended against expanding the program and increasing the fee because of economic and budget concerns, though he recommended considering expanding the program in the future.

Staff has also provided information on options for expanding the program to cover all rental housing in Lawrence. Planning and Development advocated for expanding the rental registration program to all rental units in their budget transmittal memo for the 2012 budget. Planning and Development staff believe that the program can be "cost neutral" and that the benefits would include safer housing for renters, reduced demolition by neglect, more stable neighborhoods, and a consistent standard of housing for all landlords to abide by.

### Rental Housing in Lawrence

Lawrence has a large rental housing presence. The Census Bureau's American Community Survey estimated that Lawrence had 20,720 occupied rental housing units paying rent in 2010. Providing rental housing is a large economic activity in Lawrence. Tenants paid an estimated total of over \$200 million in rent in 2010. Monthly rents range from less than \$200 to more than \$1,500.

<i>Gross Monthly Rent</i>	<i>Number of Units</i>
Less than \$200	144
\$200 to \$299	178
\$300 to \$499	2,359
\$500 to \$749	5,605
\$750 to \$999	6,307
\$1,000 to \$1,499	4,644
\$1,500 or more	1,483

More than half (58 percent) of the occupied housing units in Lawrence are rental housing. To put this in context, Lawrence ranks 37<sup>th</sup> of 367 cities in the American Community Survey in rental as a portion of occupied housing units.

<i>City</i>	<i>Renter occupied housing units</i>	<i>Rental as a portion of total occupied housing units</i>
Manhattan	12,172	61
Lawrence	20,720	58
Topeka	23,593	43
Wichita	55,556	37
Kansas City	18,482	36
Overland Park	23,990	33
Olathe	12,587	29

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## City program generally follows good practices; fees generate too little revenue to cover current program costs

The city’s rental inspection program follows many good practices for rental regulation programs. The City Auditor identified the good practices through reviewing literature and discussions with people knowledgeable about rental housing regulations. Figure 3 summarizes how Lawrence addresses the good practices and Appendix A provides additional description of Lawrence’s program.

**Figure 3 Summary of good practices for rental housing programs**

<i>Good Practices</i>	<i>Lawrence</i>
Set standards for rental housing	The City Code defines the standards for rental housing in RS zoned districts.
Identify rental housing	To identify rental housing, staff review existing city records, provide information on the city web page about the program, and contact people who have registered when a renewal is due.
License rental housing	The city collects basic information from licensees that is simple for landlords to provide and gives the city the information needed for the program. The city maintains the rental license program data in a computer database. The city reminds license holders of the need to renew on an annual basis.
Monitor rental housing	City Code establishes the basic requirements for rental housing and the city inspects licensed rentals at least once every three years. In addition, the city inspects rental housing when a tenant makes a complaint. The inspector records the results of inspections on a paper form, provides that information to the property owner, and records the results of the inspection in a database. Inspectors hold certifications from the International Code Council.
Handle complaints	The city accepts complaints from tenants.
Establish an enforcement process	City Code establishes a process for enforcement violations. The city may also revoke or deny renewal of a rental license.
Analyze and report on results of the program	Staff provides some information about the program to the City Commission, for example, in memos suggesting changes to the City Code.

Overall, the city's program generally addresses the good practices, but the review identified several areas where changes could strengthen the programs practices.

#### **City implementing new software**

The city has begun to implement new software for the rental licensing program. The city expects to implement the community development software in 2012.

**Writing policies and procedures could strengthen the program.** The city hasn't written policies and procedures to guide the rental registration and inspection program. While the inspection checklist guides inspections and helps ensure consistently, additional written policies and procedures would help ensure the city registers, inspects, and documents consistently. Written policies and procedures also help maintain continuity in a program and provide a tool for effectively implementing policy.

#### **Unlicensed rental properties**

Owners of rental properties don't always license properties as required by the City Code. A city inspected a rental property based on a complaint by the tenant and accompanied by the City Auditor. The property's owner hadn't licensed the property despite its location in an RS zone. Reviewing the city's property ownership and zoning data in the geographic information system identified 12 properties with the same owner, located in RS areas, and not currently licensed. Ten of those properties had been licensed about 6 years ago. It appears that the owner has been renting unlicensed units.

**Additional equipment could improve efficiency and strengthen the quality of program data.** The inspector records the results of inspections on paper forms and then transfers the results of the inspections to the database. Recording the inspection results directly in the database would eliminate some work and reduce the chances for errors in documenting the results. As the city implements a new database for administering the program, the city should look for opportunities to improve how inspection data is collected and recorded.

**Regular performance measurement and reporting would help the City Commission and public understand and evaluate the program.** The city currently reports limited measures related to the rental housing program. Both the departmental annual report and the budget include a

workload measure, the number of inspections.<sup>3</sup> The budget also includes survey results to a question about neighborhood livability. The lack of measures reflects the small size of the program, some difficulties compiling data from the existing information systems, and the priority the city as a whole has put on performance measures. The city hasn't updated the organization-wide "scorecard" since 2008. In the most recent employee survey, many respondents with an opinion disagreed (44 percent) with the statement that they "understand city's performance measures." Additional performance measures and reporting could provide more information without significantly increasing the effort to collect and provide the measures.

#### **Potential measures**

Management should establish specific performance measures to help the City Commission and public understand and evaluate the program.

The City Auditor reviewed measures from some other communities and identified additional measures that provide information and could be compiled and reported without much additional effort.

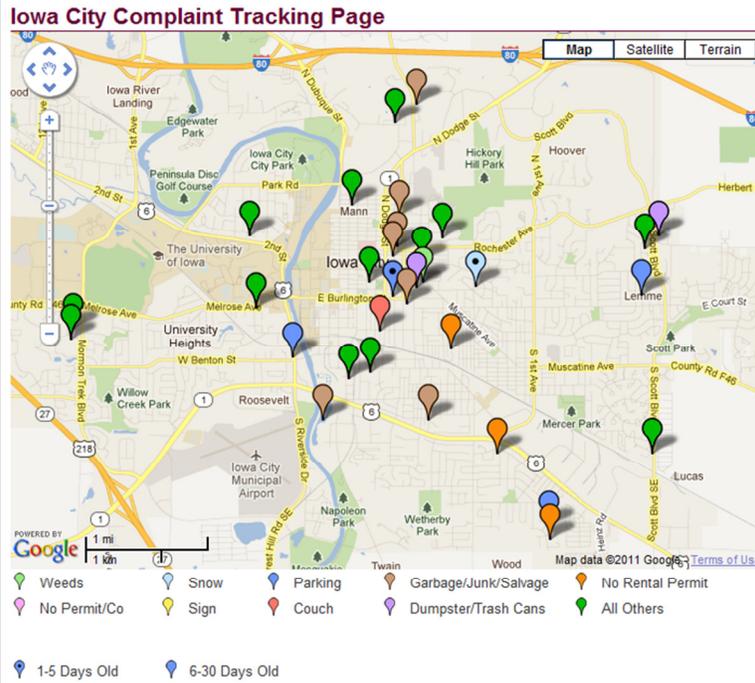
- Continue measuring and reporting inspection work load, such as the number of inspections
- Continue measuring and reporting citizen survey results (keeping in mind that surveys haven't been done on an annual basis), such as residents satisfied with livability of their neighborhood
- Add a measure to address the results of inspections, such as the most common types of violations or violations corrected during the year
- Add a measure to address revenue recovery, such as the portion of direct program costs recovered through fees

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<sup>3</sup> The 2012 budget reports 743 rental inspections and reinspections for 2010; the annual report shows 435 inspections in 2010 and 743 in 2009. The performance audit did not assess the reliability of the reported data nor attempt to reconcile the differences in the reports.

## Providing information on complaints

Some communities provide access to inspection data through a city web page. Stakeholders familiar with landlord and tenant issues described providing this information as valuable. The City of Iowa City established a rental housing regulation program in the 1970s and makes rental housing and other code and criminal complaints available through a map on the city web page.



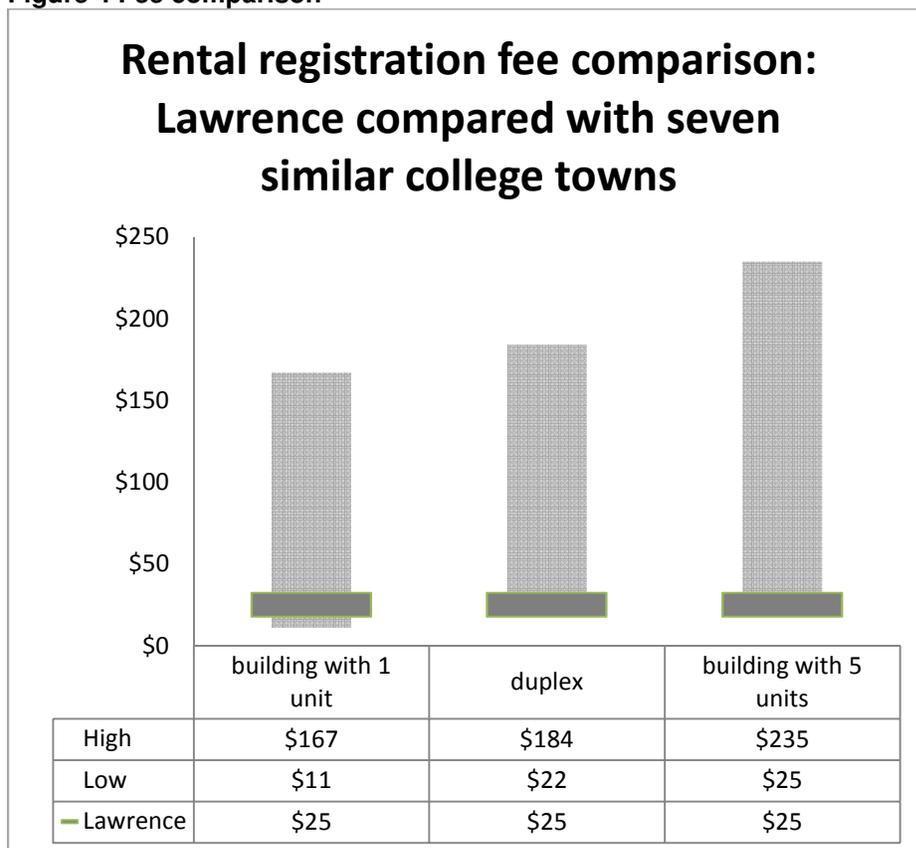
Providing code enforcement information helps neighbors and community organizations track the progress of code enforcement activities and helps identify trends and problems by location.

**Program revenue below costs.** Payments from landlords to register their properties fall well short of covering the costs of operating the current program. Over the last two years, rental registration revenue averages about \$40,000. Revenue covers less than half of the salary and benefit costs of the Planning and Development Services staff involved in the program.<sup>4</sup> Consequently, most of the program's costs are borne by general revenues.

<sup>4</sup> Salary and benefit costs were allocated six positions in Planning and Development Services, with the allocations ranging from 75 percent to 3 percent depending on the staff position. Estimated health insurance costs make up a significant part (12 percent) of the total. The total excludes equipment costs, such as a vehicle and computers, and office costs and costs from departments other than Planning and Development Services.

The registration fee in Lawrence is low compared to similar registration fees in a group of college towns that have rental registration programs. Lawrence charges a registration fee of \$25 per property and set the fee in 2001.<sup>5</sup> For a single family rental home, the fees among the group of 8 cities range from \$11 (Corvallis, OR) to \$167 (Iowa City, IA). The median fees for the group of cities are \$42.50 for single units, \$50 for duplexes, and \$110 for a building with five units.<sup>6</sup> Figure 4 shows where Lawrence’s fees fit in the range for three types of rental properties. Until this year, Lawrence did not require registration for rentals with more than two units.

**Figure 4 Fee comparison**



When the city established the rental licensing program, fees recovered a more of the program’s costs. If current fees were raised to about \$40, then the current cost recovery level would remain below the costs of the program but would be similar to the recovery level when the city first

<sup>5</sup> Had Lawrence’s fees tracked inflation, the annual fee would be about \$32 and the city’s annual revenue would be about \$11,000 more.

<sup>6</sup> If Lawrence fees were at the median, the city’s annual program revenue would be about \$74,000. That is still below current program costs, but recovers significantly more of the program costs.

created the program in 2001. In the 2009 budget process, the City Manager recommended establishing fees at \$40.

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## **Recommendations**

The City Auditor recommends that the City Manager:

1. Write policies and procedures for the rental inspection program. The written documentation should address program practices and cover the elements of good practice identified in this performance audit.
2. Establish performance measures and reporting for the rental program
3. Propose an ordinance to raise the fee level to better recover program costs.
4. Seek direction from the City Commission about whether the city should continue to exempt rental properties in the PUD areas that were formerly RS zoned.

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# Performance Audit: Rental Licensing and Inspection

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## Scope, methods and objectives

This performance audit was designed to address:

- What does the city's rental regulation program cover?
- Given the program's coverage, has the city established the general practices expected of an effective regulatory program?

The performance audit focused on the city's rental licensing and inspection program.

To understand the city's program and identify good practices for rental licensing and inspection programs, the City Auditor interviewed city staff and others, reviewed relevant documents and literature, and reviewed data maintained by both the city and the Census Bureau. The auditor interviewed city staff and staff from other cities. The auditor interviewed stakeholders including attorneys involved in tenant-landlord issues, landlords, and representatives of neighborhood interests. The auditor reviewed the City Code and memos related to the city's program. The auditor reviewed U.S. Census Bureau American Community Survey data on rental housing in cities across the nation and used the city's geographic information system to understand the scope of the city's program.

To assess the reliability of the geographic information system, the City Auditor interviewed city staff to understand the data. The auditor did not conduct significant testing of the data, but didn't identify problems that would affect the findings or conclusions of this performance audit.

The City Auditor conducted limited reviews of the program data maintained by the city in the AS400. The city intends to implement a new system in 2012. The city auditor didn't identify any problems that would affect the findings or conclusions of this performance audit.

The City Auditor reviewed information about rental housing programs in 15 similar communities. The auditor used the same cities as were used in the Performance Audit: Financial Indicators (September 2011). Communities were selected to be similar to Lawrence in urban area population, portion of the population under the age of 18, per capita income, and median age of housing.

The City Auditor conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. The City Auditor believes that the evidence obtained provides a reasonable basis for the finding and conclusions based on the audit objectives.

The City Auditor provided a final draft of the report to the City Manager on January 31, 2012. The City Manager's written response is included.

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## Performance Audit: Rental Licensing and Inspection

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### Appendix A: Summary of Lawrence Rental License and Inspection Program

<i>Item</i>	<i>Other Cities</i>	<i>Lawrence</i>
Content of inspections	Most inspect for code compliance	Property maintenance and environmental codes. Rental housing regulations also address the noise, anti-litter, and disorderly house nuisance ordinances, and occupancy limits.
Other safety measures	Some inspect for specific requirements such as lead or heaters	Inspect furnaces but do not test for gas leaks or carbon monoxide emissions.
Exemptions	Some exempt certain properties	Properties outside of RS zoned districts; other exemptions include owner occupied dwellings, group homes, boarding houses, Greek housing, and hotels.
Re-inspection cycles	Period between inspections varies	At least one inspection every 3 years. The city also inspects in response to complaints (which include inspections of rental properties that aren't licensed).
Period for repairs and re-inspections	Period for landlords to make repairs and have re-inspections varies	The city has discretion to allow time for repairs. The city may reinspect to confirm repairs.
Sampling for buildings with many units	Some allow for inspection of a portion of units in larger buildings	No.
Targeting "bad" landlords/rewarding compliance	Some vary the frequency based on inspection results; properties without violations may be inspected less frequently	No.
Linkage to nuisance violations	Some may revoke licenses with repeated nuisance violations	Yes. The city can revoke a rental license for one or more violations of: noise ordinance, environmental code, anti-litter ordinance, development code, disorderly house nuisance ordinance, property maintenance code or occupancy limits.

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Tenant registry	Some require landlords register tenants to assist linking nuisance violations to properties	No.
Lease language	Some require lease to allow termination if nuisance violations occur	No.
Phase in	Some phase-in new requirements to provide more time to comply	Not applicable for an existing program.
Business or unit licenses	Some allow a license to cover all units under the same ownership while others require a license for each unit	Each property requires licensing.
Department overseeing inspections	Varies among cities	Planning and Development Services
Fees	Fees vary widely	\$25 annual fee per property.
Penalties	Penalties vary widely	The city can place a registered owner on probation or revoke a license. Violations are municipal offense which can result in fines of \$500-\$2,500. The city can terminate water, sanitary sewer and solid waste services for violations in certain circumstances. The city can vacate a property if repairs aren't made. The city can deny a rental license in certain situations, such as when a property owner has recently had a license revoked.
Resident manager	Some require a responsible manager within the local area	Yes. If an owner live more than 40 miles outside of the city, then the owner must appoint a local agent.
Landlord education	Some provide checklists and information for landlords	The city provides information on the city web page. The city provides landlords with pamphlets on living in a residential neighborhood that the landlord provides to at least one tenant in each unit. The rental registration form describes the city's occupancy requirements. The city provides landlords with information sheets for tenants on occupancy.
Rehab assistance	Some offer loans to assist making repairs	No.

Rental unit database	Some maintain public databases of licensed rental properties	Yes.
Tax and utility compliance	Some require that taxes and utilities be paid before issuing or renewing a license	No.
Information on types of units	Some require registry of number of bedrooms and floor plans for licensed units	No.

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## Performance Audit: Rental Licensing and Inspection

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### Management's Response

#### **Overview**

The City Commission has had relatively recent discussions regarding the existing rental licensing program, as well as the merits of expanding the program to include more rental structures in the city. The most comprehensive discussion occurred during the winter of 2008-09. A packet of information was considered by the Commission on February 17, 2009, including information on ways to increase the program fees in order to recover 100% of the costs to operate the program. At the time, the economy was in poor condition and city programs were being reduced to align with the economic conditions.

All of the recommendations are worth pursuing. The following information is presented to address the recommendations.

#### **Recommendations**

1. Write policies and procedures for the rental inspection program. The written documentation should address program practices and cover the elements of good practice identified in this performance audit.

*Response: PDS staff has begun the process of creating policies and procedures for the rental inspection program. Elements of the program to be covered include: application submission and payment, record keeping, inspections, and enforcement. Staff will complete this recommendation within **6 months** of the City Commission receiving the audit.*

2. Establish performance measures and reporting for the rental program.

*Response: The current tracking software being used produces basic data for the program including number of units in the program, number of inspections, enforcement action dates, etc., but does not produce the kind of data necessary to track meaningful performance measures. For example in 2010, staff completed 435 rental inspections, but it would be difficult to report on the types of code violations found and addressed through the inspection process.*

*PDS agrees with audit findings that technology could streamline parts of the program. Providing the inspector(s) tablet computers, for example, would aid in resulting an inspection on site instead of transcribing notes to the software when returning to the office.*

*Planning and Development Services staff will draft and submit performance measures and reporting objectives to the City Manager for review and approval within **6 months** of the City Commission receiving the audit. PDS is in the process of implementing the Innoprise software system for tracking of various types of development applications, as well as the primary implementation software tool for the rental licensing program, which will provide greater ability to manage the program and to measure performance and report findings.*

3. Propose an ordinance to raise the fee level to better recover program costs.

*Response: The February 17, 2009 memo to the City Commission included several fee options to consider if the goal of such a program is to be cost-neutral. Staff projected that a fee increase from \$25 to \$60 would be in order to expand the program and hire and purchase the necessary staff and equipment to implement the program. The memo also provided a fee comparison between cities for the Commission's consideration.*

*It is typical in establishing program fees to discuss whether the users should bear all of the associated costs or whether the public at large should participate because the program is serving a greater community good by its presence. The rental licensing program is intended to benefit the tenants and surrounding neighbors and so it may stand to reason that the community at large should participate in its funding. However, as the audit*

*notes, the current fees generated by the program leave a wide gap between the program's revenues and expenses. Any fee increase would close the gap. PDS staff believes a fee increase resulting in a fee range between \$45-\$60 should be considered to aid in cost recovery and lessen the burden on the city-at-large.*

4. Seek direction from the City Commission about whether the city should continue to exempt rental properties in the PUD areas that were formerly RS zoned.

*Response: As noted in the audit report, the July 1, 2006 Land Development Code effectively rezoned certain properties that contained a base RS district with a Planned Development overlay to a classification of PUD and PRD. Many of the PUDs contain a mix of housing types and uses; Detached Dwelling, Duplex, and Attached Dwellings (triplex). Prior to the 2006 code change, the Detached Dwellings (single-family homes) and Duplexes would have been required to be licensed and many were licensed in the program. Because of the zoning change and the requirements of the rental licensing ordinance at the time, an interpretation and decision was made to exempt Detached Dwellings and Duplexes if they were located in PUD or PRD zoning districts under the 2006 code. The audit notes that approximately 160 units would have potentially been licensed within PUD and PRD zoned areas of the city.*

*In hindsight, this interpretation of the two sections of city code that effectively exempted Detached Dwellings and Duplexes in such areas could have deleterious impacts to the neighborhoods. The code change in 2006 did not change the use of the PUD and PRD areas, it simply renamed them. PDS staff is hopeful that direction can be provided upon receipt of the audit by the CC to initiate the necessary code amendments to include all rental structures in the PUD and PRD categories that were formerly RS zoned properties.*