

**Rental Certificate of Occupancy
Notice & Program Advisory Update**

**CERTIFICATES OF OCCUPANCY
Revised Procedures for Conducting RCO Business**

In 2005, the Mesquite City Council approved amendments to the International Residential Code creating the Rental Certificate of Occupancy (RCO) program. The program has proven to be a valuable tool for ensuring tenant health and safety, fostering landlord relationships, protection of neighborhoods and property values, and has served to maintain a more valuable rental housing stock for the City. On December 18, 2017, City Council adopted Ordinance 4527 amending provisions of the 2015 International Residential Code pertaining to the RCO program. This Advisory summarizes important changes in the new ordinance and describes how they may affect property owners and management companies. All changes shall take effect on March 1, 2018. Pertinent language is shown in *italics*.

I. Section R202 Dwelling unit, defined.

A dwelling unit or any portion thereof, including but not limited to a room or other living space in a one- or two-family dwelling that is let or intended to be let to a person or persons unrelated to the owner, regardless of whether or not any other unit, room or space in the dwelling is inhabited, or intended to be inhabited, by the person holding legal title thereto For purposes of this code, a non-owner occupied dwelling unit shall include the premises whereon the dwelling is situated.

This expanded definition includes any rented space inside the dwelling unit for any duration, as well as the unit as a whole. For clarification, the entire premises is also included. All these areas are subject to the RCO program and must be in compliance prior to issuance of the certificate of occupancy.

II. Section R110.2(1) Change in occupancy.

If the dwelling unit is found to be occupied prior to inspection, the Building Official shall assess a pre-inspection occupancy fee of Two Hundred Fifty (\$250.00) Dollars

The fee for illegally allowing a unit to be occupied prior to receiving a new certificate of occupancy will increase from \$100 to \$250. In accordance with current practice, this fee must be paid before inspectors will conduct an inspection of the unit or issue a certificate of occupancy. Owners can avoid the fee by requesting an inspection and correcting any deficiencies prior to leasing the premises. The EnerGov online rental system makes it easy to request an inspection. Also, see Paragraph IX, below.

III. Section R110.2.1 Re-inspection fee.

A re-inspection fee as provided in City Code Section 5-20 will be assessed for the second re-inspection and each subsequent re-inspection until corrections are made and the non-owner occupied dwelling unit is in compliance.

Currently, the re-inspection fee is \$50. The fee will be assessed beginning with the second re-inspection (i.e., after the initial inspection and the first free re-inspection). This fee must be paid before inspectors will make another reinspection. Owners can avoid this fee by making sure that all deficiencies noted on the first and second inspection are corrected before requesting another inspection. Details about a red tag item can be discussed with the inspector at any time.

IV. Section R110.2.2 Certificate of occupancy as temporary license; expiration.

A certificate of occupancy to let a non-owner occupied dwelling unit shall constitute a temporary, revocable license to conduct an accessory use as provided under Chapter 2-200 of the Mesquite Zoning Ordinance.

Said certificate of occupancy shall expire on the date the dwelling unit is vacated by the previous occupant, or on the third anniversary of issuance of the certificate, whichever is the earlier.

RCO certificates of occupancy will expire on the earlier of: 1) A change in tenancy, or 2) Three years from the date of issuance. Certificates of occupancy currently in effect shall expire on December 18, 2020, or upon a change in tenancy, whichever first occurs. The purpose of this change is to ensure that dwelling units with older certificates are still in compliance with requirements of the International Residential Code and International Property Maintenance Code.

V. Section R110.2.3 Renewal of certificate.

Beginning no earlier than ninety days prior to the third anniversary of a certificate of occupancy, the owner or owner's agent may request an inspection of the non-owner occupied dwelling unit for the purpose of renewing the certificate.

Renewal of the RCO certificate of occupancy is easy. Ninety days prior to expiration, owners should enter the EnerGov online rental system to request an inspection. At that point, the inspection of the unit and premises will follow standard procedures. Owners can avoid any problems resulting from expiration of a certificate by scheduling an inspection early in this 90-day window, which provides sufficient time to correct any deficiencies with the dwelling unit or the premises.

VI. Section R110.3.2 Unlawful use or occupancy.

It shall be unlawful and an offense for any certificate holder to use, suffer or permit any non-owner occupied dwelling unit to be used or occupied in violation of the Mesquite Zoning Ordinance or contrary to the terms of said certificate.

The certificate holder is responsible to ensure that neither the dwelling unit nor the premises is used in violation of the Mesquite Zoning Ordinance. This includes illegal land uses or unregistered home occupations. A zoning violation may lead to revocation of the RCO certificate of occupancy. See Paragraph VIII, below.

VII. Section R110.3.3 Local Agent.

No certificate of occupancy shall be issued for a non-owner occupied dwelling unit until the owner furnishes the name, physical address and telephone number of an individual who has express agency to act on behalf of the owner, receive notices and service of legal process pertaining to the dwelling. The physical address of such agent shall be within 25 miles of the City of Mesquite.

Data show that 60 percent of landlords and property management companies participating in the RCO program are located outside the City of Mesquite. Many are outside the State of Texas. This change makes it possible for RCO inspectors to deliver notices or legal process to persons directly responsible for the conditions of the dwelling unit or premises. The local agent must have express authority and be physically located within 25 miles of the city. The enclosed map illustrates how large an area is available for meeting this requirement. The owner may serve as the agent if the owner's physical address is within 25 miles of the city.

VIII. Section R110.5.1 Revocation of certificate.

In addition to all other remedies available by statute, ordinance or regulation, the certificate of occupancy for such non-owner occupied dwelling unit [that is in violation of R110.3.2] shall be subject to revocation in accordance with procedures set forth in the Mesquite Zoning Ordinance.

Revocation of any certificate of occupancy is an extraordinary remedy and is not used lightly. If an illegal activity at a rental unit is not promptly resolved after first notice, the City may take steps to revoke the certificate with 10 days' notice and an opportunity for a hearing.

IX. Section R111.1.1 Connection of service utilities.

It shall be unlawful and an offense for any owner or owner's agent to make connections, or continue or maintain existing connections, for water utilities to any non-owner occupied dwelling unit that is required by this code to be inspected prior to occupancy or re-occupancy.... As to continuing or maintaining existing connections, it shall be a defense to prosecution under this section that no later than the tenth day after the

non-owner occupied dwelling unit was vacated by the previous occupant, the owner or owner's agent requested an inspection of the unit.

An approved inspection prior to activating a water account has always been required. Some landlords or property management companies maintain the account in their name instead of the tenant. This recent change makes it unlawful for the owner or owner's agent to continue an active water account after the previous tenants have vacated the dwelling unit. However, an exception is made if the owner requests an inspection of the dwelling unit within 10 days after the unit is vacated. This provides the City with actual notice that a change of tenancy is about to occur, in which case the owner may continue an active water account in his or her name. Also, please note an important change that took place in 2017: **The City has ceased the practice of providing a 10-day Temporary Water Service to a unit that is illegally occupied prior to receiving an inspection and a certificate of occupancy.** The Water Department will not activate an account to a single-family or duplex rental unit until an RCO inspector has approved the unit and premises for occupancy.

We sincerely thank the many owners and management companies who have made the Rental Certificate of Occupancy program a success. Staff of the Building Inspection Division will be happy to help you work through this transition and be glad to answer any questions you have. We look forward to continuing to work with you to improve the overall conditions of the housing stock in the City of Mesquite.

Please feel free to contact Building Inspection at 972-216-6212 for any questions or assistance.

