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ORDINANCE 100 HOUSING AND PROPERTY MAINTENANCE

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**Section 100.1. Purpose and Intent.**

**Subd. 1. Purpose.** The scope of this Ordinance shall apply to all existing residential and nonresidential structures and all premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from elements, fire and life safety, and for safe and sanitary maintenance. This Ordinance identifies the responsibility of owners, operators and occupants; the requirements for the occupancy of existing structures and premises, and for the administration, enforcement and penalties regarding rental dwelling licensing and registration.

**Subd. 2. Intent.** This Ordinance shall be construed to secure its expressed intent, which is to ensure public safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

**Subd. 3. Savings Clause.** With respect to rental disputes, and except as otherwise specifically provided by the terms of this Ordinance, it is not the intention of the City Council to intrude upon the fair and accepted contractual relationship between tenant and landlord. The Council does not intend to intervene as an advocate of either party, nor to act as an arbiter, or to be receptive to complaints, from tenant or landlord, which is not specifically and clearly relevant to the provisions of this Ordinance. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of City Government. Neither in enacting this Ordinance is it the intention of the City Council to interfere or permit interference with legal rights to personal privacy.

**Section 100.2. Definitions.**

**Subd. 1. Building.** Any structure used or intended for supporting or sheltering any use or occupancy.

**Subd. 2. Criminal Background Checks.** The criminal background check must consist of a record check of all Minnesota agencies. For example, a criminal history completed by the Minnesota Bureau of Criminal Apprehension (MBCA) is acceptable. A background check of local records only is not acceptable. The Waite Park Police Department or an acceptable private background screening company may assist with completing the required background checks.

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**Subd. 3. License.** There shall be two types of licenses for rental property.

- A. Regular – A license that is issued to a rental property which has had an inspection of the property and rental unit(s), has complied with any written order resulting from the inspection, and has not generated five (5) or more police calls or complaints for illegal or nuisance type conduct within a twelve (12) month period of time.
- B. Provisional – A license that is issued to a rental property that is being rented: 1) before an inspection has been conducted, 2) before work required by any written orders has been completed, or 3) is a rental property that has generated five (5) or more police calls or complaints for illegal or nuisance type conduct within a twelve (12) month period and has had their license re-classified from regular.

**Subd. 4. Rental Dwelling.** A dwelling unit, manufactured home, rooming house, or sleeping room occupied by a person or persons in the status of a tenant.

**Subd. 5. Sleeping Room.** A room or enclosed floor space in a “rooming house” or “dwelling unit” as defined in this Ordinance, used or intended to be used primarily for sleeping purposes.

**Subd. 6. Rental Property.** Rental property means any real property or dwelling rented or leased by one (1) person or entity to another person or entity for residential purposes, including but not limited to houses, apartments, townhouses, condominiums, manufactured or mobile homes or the lots on which they are located, and other similar structures.

### **Section 100.3. International Property Maintenance Code Adopted.**

**Subd. 1. International Property Maintenance Code.** The International Property Maintenance Code, 2006 Edition, as from time to time amended or modified, one (1) copy of which is on file in the Office of the Administrator-Clerk-Treasurer, is hereby adopted by reference and is made a part of this Ordinance as if fully set out in length except as amended as follows:

- A. Where this code references any of the model codes it shall mean the code adopted by the State.
- B. Where this code references the International Zoning Code it shall mean the City of Waite Park’s Zoning Ordinance.
- C. Section 101.1 Insert: City of Waite Park
- D. Section 103.5 Insert: Appendix B Fee Schedule
- E. Section 111 Deleted in its entirety

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- F. Section 302.4 Insert: eight (8) inches
- G. Section 303.2 Deleted and Insert: All swimming pools and spas shall comply with Section 52.49.08 of the City of Waite Park Zoning Ordinance.
- H. Section 304.14 Delete: During the period from (DATE) to (DATE), every
- I. Section 304.14 Insert: Every
- J. Section 404.4.1 Amend: for two persons and shall be increased at the rate of fifty (50) square feet for each occupant in excess of two.
- K. Section 602.3 Delete: during the period from (DATE) to (DATE)
- L. Section 602.4 Delete: during the period from (DATE) to (DATE)
- M. Section 603.2 Delete: the exception
- N. Section 704.5 New Section: Fire Extinguishers. Fire Extinguishers shall be provided for each building and/or occupancy as required in the Fire Code. A fire extinguisher shall be provided for every one (1) and two (2) family rental dwelling unit (R-3) with a minimum rating of 2A10BC.
- O. Section 704.6 New Section: Carbon Monoxide Detectors. Carbon Monoxide Detectors shall be installed and maintained as required by state law.

### **Section 100.4. Registration and Fees.**

**Subd. 1. Rental Dwelling License Application.** The application shall be made by the owner if such owner is a natural person; if the owner is a corporation, by an officer thereof; if the owner is a partnership, by one (1) of the partners; and if the owner is an unincorporated association, by the manager or managing officer thereof. Renewal of registrations as required annually by this Ordinance may be made by filling out the required renewal form provided by the City of Waite Park to the owner of rental property and mailing said form together with the required registration fee to the City of Waite Park.

**Subd. 2.** No person shall operate rental property in the City of Waite Park without first having properly filed a Rental Dwelling License Application and paid the appropriate fee to the City of Waite Park. Any person filing such an application thereby consents to be bound by all of the provisions of this Ordinance and the other Ordinances of the City of Waite Park, as they may relate to rental property. No operating license shall be issued or renewed unless the owner of rental units agrees in their application to permit inspections pursuant to this Ordinance. The application shall be filed on forms furnished by the City of Waite Park for such purposes and shall set forth the following information:

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- A. Name, address, email address and residence phone number of the owner, and if a corporation, the name of officers and registered office thereof. All owners must be listed.
- B. Name and address of the rental property and the number of units to which the license applies.
- C. The name, address, email address, emergency and cell phone numbers of the owner's agent authorized to make or order repairs necessary to protect the health, safety and welfare of the occupants. This person shall also receive notices of violations of the provisions of this Ordinance and other applicable Ordinances of the City of Waite Park. The owner must designate a person residing within a 30-mile radius of the city limits of the City of Waite Park as their agent for this purpose.
- D. Number of units within the rental property (dwelling units or manufactured homes).

### **Subd. 3. Registration License Fee.**

- A. A license fee, as adopted by the City Council in Appendix "B" – Waite Park Schedule of Fee Charges is required with the initial application.
- B. A delinquency penalty, as established in Appendix B – Waite Park Schedule of Fee Charges, for operation without a valid license, shall be charged to owners of rental dwellings. Once issued, a license is nontransferable and the licensee shall not be entitled to a refund.

**Subd. 4. Annual License Renewals.** License renewals of all rental dwellings licensed for the previous year shall be renewed on or before March 31st of each year. All renewals not received by March 31 of each year will expire. A penalty will be assessed to any late renewal as adopted per Appendix B – Waite Park Schedule of Fee Charges.

**Subd. 5. Transfers.** No operating license shall be transferable to another person or to another rental dwelling. Every new owner of a rental property, (whether as fee owner, contract purchaser, lessee of the entire dwelling, or otherwise) shall register before taking possession. Every person holding an operating license shall give notice in writing to the Code Official within seventy-two (72) hours after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. Such notice shall include the name and address of the person succeeding to the ownership or control of such rental dwelling or dwellings.

**Subd. 6. Inspection Condition.** Prior to the issuance of any new rental license, the Code Official will inspect the premises to insure that the proposed rental use of the property complies with the requirements of the Waite Park Zoning Ordinance and other Ordinances of the City.

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### **Section 100.5. Display of License.**

**Subd. 1. Posting of License and Notice.** Every licensee of a multiple dwelling building shall cause to be conspicuously posted in the main entryway or other conspicuous location therein the current license for the respective multiple dwelling. Licensees of dwelling units other than multiple dwelling buildings shall cause to be conspicuously posted in every rental dwelling unit the current license for the respective dwelling unit. The notice shall be provided to the owner at the time of issuance of the license.

### **Section 100.6. Inspection: Right of Entry and Inspection.**

**Subd. 1.** In order to compel the compliance with the registration requirements and this Ordinance, the Code Official shall have the authority to enter any building or manufactured home park at reasonable times upon five (5) days written notice to the tenant, to determine if said building or manufactured home is operated as a “rental dwelling” as defined in this Ordinance. The City may conduct periodic inspections and impose a fee as set forth in Appendix B - Waite Park Schedule of Fee Charges.

**Subd. 2. Occupancy Register Required.** Every owner of a licensed rental dwelling shall keep, or cause to be kept, a current register of occupancy for each dwelling unit which provides the following information:

- A. The dwelling unit address;
- B. Number of bedrooms in the dwelling units;
- C. Name of adult occupants and number of adults and children (under 18 years of age) currently occupying the dwelling unit;
- D. Dates renters occupied and vacated dwelling unit;
- E. Chronological list of complaints and requests for repair by dwelling unit occupants, which complaints and requests are related to the provisions of this Ordinance; and
- F. A similar chronological list of all corrections made in response to such requests and complaints.
- G. Criminal background checks of current occupants.

**Subd 3. Occupancy Register Access.** A register of all current occupants shall be maintained. Such register shall be made available for viewing or copying by the Code Official or Waite Park Police Officer or Firefighter at all reasonable times or in the event of an emergency.

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**Subd. 4. Correction Notice.** Whenever an inspector determines that any residential rental property fails to meet the requirements set forth in the applicable rules, standards, statutes or Ordinances, the inspector shall issue a correction notice setting forth the violations and ordering the occupant, owner and/or owner's designated agent to correct such violations. The notice and order shall:

- A. Be in written form;
- B. Describe the location and nature of the violation;
- C. Establish a reasonable time for the correction of any violation;
- D. Be serviced upon the owner, the owner's designated agent and/or the occupant as the case may require. Such notice shall be deemed to be properly served if a copy thereof is: 1) Served upon the owner, designated agent and/or occupant personally; or 2) Sent by certified mail, return receipt requested.

Failure to correct violations within the time period stated in the correction order shall result in an administrative penalty as set forth in Appendix B - Waite Park Schedule of Fee Charges as well as other sanctions provided by law or this Ordinance. If the correction order relates to actions or omissions of the occupant, and the occupant fails to make the necessary corrections, the licensee may be required to remedy the condition by whatever means necessary. No adverse action shall be taken against a licensee for failure to remedy a condition during the pendency of a bona fide eviction proceeding being pursued by the licensee.

**Section 100.7. Health Department Inspection.** The Stearns County Health Department shall have the right to inspect rental dwellings, as defined in this Ordinance to enforce the sanitation requirements.

**Section 100.8. Applicable Laws.** Licensee shall be subject to all of the provisions of this Ordinance and the State relating to dwelling units and manufactured home parks; and this Ordinance shall not be construed or interpreted to supersede any other such applicable Ordinance or law.

**Section 100.9. Owner Responsibility.** For purposes of this section, owner is defined to include corporations and partnerships as well as individual owners.

**Subd. 1.** The owner of a residential dwelling is responsible to cause persons occupying the dwelling unit to conduct themselves in such a manner to ensure that persons upon the premises have not committed violations, including but not limited to any of the following:

- A. City Code Section 98: Noise Ordinance.
- B. City Code Section 90: General Public Nuisances.
- C. Minn. Stat. 609.72: Disorderly Conduct.

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- D. Minn. Stat. 609.221 - 609.224: Assault.
- E. Minn. Stat. 609.33: Disorderly House.
- F. Minn. Stat. 609.74: Public Nuisance.
- G. Minn. Stat. 340A: Unlawful sale, use or possession of alcoholic beverages.
- H. Minn. Stat. 97B.021, 97B.045, 609.66 – 609.67 and 624.712 – 624.716: Unlawful possession, transportation, sale or use of a weapon.
- I. Excessive or abusive calls for City Services.

Any rental dwelling unit that receives three (3) police calls or complaints for illegal or nuisance type conduct within a twelve (12) month period may result in suspension or revocation of the rental license.

It shall not be necessary that criminal charges are brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Section.

**Subd. 2.** The Police and/or the Building Department will be charged with the responsibility of enforcing and administering this Section.

**Subd. 3. First Notice:** Upon determination by the Police that the licensed premises has received three (3) police calls or complaints or were used in a manner in violation of any of the provisions enumerated in Subd. 1, the Building Department will notify the owner and managing agent of the owner by regular mail, and direct the owner and managing agent to take steps to prevent further violations at the premises.

**Subd. 4. Second Notice:** If two (2) additional police calls or complaints of any provisions enumerated in Subdivision 1 occurs at the premises within twelve (12) months of incidents for which notice provided in Subd. 3 of this Section was given, (total of five (5)), the owner and managing agent will be notified of the subsequent violation by the Building Department, and will be required to submit a written report explaining each call or complaint and will detail all actions taken by the owner and/or his managing agent in response to all notices of violations at the premises within the preceding twelve (12) months. This written report must be submitted to the Building Department within fifteen (15) days, excluding intervening weekends and holidays, of the notice of violations. Failure to respond within the fifteen (15) days will result in an Administrative Fine of \$500.00 being imposed against the licensee.

**Subd. 5. Third Notice:** If additional police calls or complaints of any provisions enumerated in Subd. 1 occur at the premises within twelve (12) months of incidents for which previous notices have been given, (total of six (6) or more) pursuant to Subd. 3 and Subd. 4, an Administrative Fine of five hundred dollars (\$500.00) will be imposed against the licensee. The regular license will be reclassified to provisional license at this time.

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**Subd. 6. Additional Notices:** If any additional calls or complaints occur at the premises within twelve (12) months of imposition of the five hundred dollar (\$500.00) Administrative Fine, (more than six (6) calls) the rental dwelling license will be revoked or suspended for such dwelling unit for a period of not less than thirty (30) days. In addition, an Administrative Fine of one thousand dollars (\$1,000.00) will be imposed against the licensee.

**Subd. 7. Right to Administrative Hearing:** No fine, suspension, or revocation will be imposed until after the owner has received notice of the proposed fine, suspension or revocation, and has been afforded an opportunity for a hearing before the City Administrator. A written request for a hearing must be submitted to the Building Department within fifteen (15) days, excluding intervening weekends and holidays, of the notice of violations. If the City Administrator finds that a violation(s) are substantiated, the City Administrator will give written notice to the owner of his/her decision within ten (10) days of the hearing date, excluding intervening weekends and holidays, of his/her findings, and recommendation to the City Council that a fine be imposed, or that the rental dwelling license be suspended or revoked. If an Administration Hearing is not requested within the specified time, the Administrative fine is due immediately.

**Subd. 8. City Council Review:** Unless the owner appeals the decision of the City Administrator to the City Council within five (5) days of issuance of the City Administrator's findings and recommendation, excluding intervening weekends and holidays, the City Council, at its next meeting, will impose the fine and/or suspend or revoke the rental dwelling license in accordance with the City Administrator's findings and recommendation. If the owner appeals the City Administrator's decision upon a form provided by the Building Department within the prescribed time period, the owner will be afforded an opportunity to have the City Council review the findings and recommendations and either affirm the findings and recommendation imposing a fine, suspension or revocation or to substitute its own findings that a violation did not occur.

**Subd. 9.** The rental license may be reinstated by the Building Department after suspension or revocation, upon payment to the City of the fine imposed by the City Council. No rental dwelling license will be renewed for the subsequent year until all outstanding fines imposed under this Section have been paid in full.

**Subd. 10.** No fine, suspension, or revocation will be imposed for a subsequent violation of Subd. 1, which occurs during the violating tenant's continued occupancy during the termination notice period required by the lease (provided that the owner or owner's designated agent has given notice of termination) or during a pending eviction proceeding (unlawful detainer). No action will be taken under this Section against an owner who was personally, or through a designated agent, the complainant on the underlying violation of Subd. 1.

For the purpose of this Subdivision, the designated agent(s) will be those individuals identified by the owner or managing agent on a list provided to and maintained at the Building Department. Any owner or managing agent who does not maintain a current list of all managers, caretakers or agents, for licensed premises, with the Building Department will not be afforded an

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exemption under this Subdivision for a designated agent being the complainant on the underlying violation of Subd. 1.

**Section 100.10. Suspension or Revocation.** Every operating license issued under the provisions of this Ordinance is subject to suspension or revocation by the City Council should the licensed owner or his duly authorized resident agent fail to operate or maintain the licensed rental dwellings and units therein in compliance with the provisions of this Ordinance, or any other Ordinances of the City of Waite Park and/or the laws of the State of Minnesota, or conditions exist or activities occur at the rental dwelling in violation of ordinance or law.

- A. Notwithstanding any finding of the Code Official for other violations, any rental dwelling unit that receives more than six (6) police calls or complaints for illegal or nuisance type conduct within a twelve (12) month period may result in suspension or revocation.
- B. In the event that an operating license is suspended or revoked by the City Council, it shall be unlawful for the owner or the duly authorized agent to thereafter permit any new occupancy of vacant or thereafter vacated rental units until such time as an operating license may be restored by the City Council.
- C. When a rental license is revoked or suspended, the property shall be vacated as of the effective date of the revocation or suspension and remain vacated until restoration of the license. In the case of a suspension, restoration shall occur automatically at the end of the suspension period. In the case of revocation, restoration of the license shall occur only after the owner of the premises has made application for a new license, and paid a new application fee. The new license may then be issued upon completion of the revocation period.
- D. No suspension or revocation of a rental license shall occur until the licensed owner has been afforded an opportunity for a hearing. The licensed owner must affirmatively request an evidentiary hearing in writing, to be received by the City Administrator no later than fifteen (15) business days prior to the date on which the Council is to consider the violations. This hearing shall be evidentiary in nature and conducted before the Waite Park City Council, which shall determine whether an Ordinance or statutory violation did occur, warranting revocation or suspension of the rental license. The determination of the City Council shall be final and subject only to any rights of review or appeal to the State courts as provided by statute. If request is not made, the right to an evidentiary hearing is deemed waived and the City Council may presume the truth and accuracy of the violations alleged and proceed to disposition at the time of the hearing.
- E. Where the City Council determines that an Ordinance or statutory violation has occurred warranting suspension or revocation, the rental license shall be suspended or revoked for a period of not less than two (2) months, or more than twelve (12) months. Execution of the suspension or revocation may be stayed by the Council on such reasonable conditions as established by the Council,

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including but not limited to, the payment of an Administrative Fine not to exceed \$1,000.00. Upon the completion of one half (1/2) of the period of revocation or suspension imposed by the City Council, the licensed owner may petition the City Council for early restoration of the rental license. Upon receipt of the petition, the licensed owner's request shall be heard by the City Council at the next regular scheduled meeting (the request must be made a minimum of ten (10) business days prior to the regular scheduled meeting). At that time, the City Council may order a restoration of the rental license if the licensed owner establishes by clear and convincing evidence that one (1) of the following two (2) circumstances then exist:

- (a) The property has been sold since the occurrence of the original violation to a party unrelated to the original owner. The sale must be for a fair consideration, negotiated at arm's length, and by Deed duly filed for record at the office of the County Recorder. A sham or "paper" transfer of title of the property to a related party or another party acting in cooperation with the owner for the purpose of circumventing the license revocation shall not constitute a transfer for purposes of this Ordinance.
  - (b) The licensed owner demonstrates to the City Council that they have properly responded to the revocation or suspension, that measures have been taken to successfully correct the violation which originally resulted in suspension or revocation, and that additional steps have been taken to assure that similar violations not occur in the future. Factors to be considered by the Council, may include: improvements and repairs to the premises, modification of the relevant lease provisions, selection of future tenants, response to citizen complaints, provision for future supervision of the premises by the licensed owner, the licensed owner's compliance with the revocation/suspension, and such other criteria as the Council considers relevant to each individual case.
- F. Where the licensed owner is able to establish by clear and convincing evidence grounds for restoration, the Council may stay the execution of the remainder of the suspension or revocation period for a period of up to one (1) year and place reasonable terms and conditions upon the licensed owner as may be relevant to further insure compliance with the Ordinances of the City of Waite Park and laws of the State of Minnesota.

### **Section 100.11. Denial of Renewal.**

- A. Every operating license issued under the provisions of this Ordinance is subject to non-renewal by the City Council should the licensed owner or his/her duly authorized resident agent fail to operate or maintain the licensed rental dwelling and units therein in compliance with the provisions of the Ordinances of the City of Waite Park and the laws of the State of Minnesota.

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- B. The owner of property for which the renewal of a licensee has been denied may request a hearing before the City Council challenging the decision of non-renewal. The right to demand a hearing must be exercised by the Owner within seven (7) days of notice of non-renewal or the hearing is deemed waived.
- C. In the event of non-renewal, the owner may not reapply for a rental license for a period of eleven (11) months from the date of non-renewal, unless the owner establishes to the City Council by clear and convincing evidence the existence of one (1) of the two (2) circumstances set forth in Section 100.10 Subd. 1, E (a) and (b).

### **Section 100.12. Criminal Background Checks.**

- A. Purpose. The intent of this Section is to protect and preserve the City neighborhoods' public health, safety and welfare of its citizens by requiring criminal background investigations of prospective tenants.
- B. Criminal background checks shall be conducted on all prospective tenants prior to occupying any rental dwelling unit. Property Owner/Property Manager shall retain a copy documenting proof of background check.
- C. Background Investigations. The Waite Park Police Department will provide criminal background information or assist owners and managers in obtaining the information.
- D. Criminal History Checks by Law Enforcement. No such investigation shall be conducted using the state Criminal Justice Data Communications Network (CJDN) and no information obtained from the CJDN shall be disseminated unless the landlord presents an Informed Consent/Waiver form signed by the prospective tenant. The Informed Consent/Waiver form must meet the requirements of Minnesota Statutes Section 13.05, Subd. 4(d). Each request must be on a form approved or provided by the Waite Park Police Department. The applicant shall pay a fee as established by Council resolution or Ordinance.
- E. Failure to comply with the requirements in this Subdivision may result in suspension or revocation of rental license.

### **Section 100.13. Waite Park Crime Free Multi-Housing Program.**

**Subd. 1. The Program.** The Crime Free Multi-Housing Program is a certification program for rental properties of all sizes, including single family rental homes. The program is available to owners and property managers of rental properties located within the corporate limits of the City of Waite Park. Necessary training and support of the program is designed to provide for ease of participation. The program is known to be effective in reducing criminal activity in rental properties. It is the policy of the City of Waite Park to encourage active participation in the program by all rental property owners and property managers.

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**Subd. 2. Certification.** To obtain and maintain certification from the Waite Park Police Department, a member of the Crime Free Multi-Housing Program, a rental property owner or property manager must:

- A. Successfully complete and implement all of the components of the Crime Free Multi-Housing Program. The components of the program are:
  - (a) Attendance at and successful completion of the Management Training component.
  - (b) Compliance with environmental crime prevention requirements set forth by the Minnesota Crime Prevention Association Crime Free Multi-Housing Program.
  - (c) At least once every twelve (12) months make available training or educate tenants in respect to crime prevention and the Crime Free Multi-Housing program.
  - (d) Include, implement and enforce, as part of all written leases, the Lease Addendum for Crime-Free/Drug-Free Housing provided by the Waite Park Police Department.

**Subd. 3.** Following successful completion of the program components described in Subd. 2 above, rental property owners or property managers are encouraged to attend annual retraining sessions and must maintain compliance with all program components.

**Subd. 4. Decertification.** Owners or property managers who do not maintain compliance with the certification requirements set forth in Subd. 2 above will lose their certification.

- A. The owner or property manager will be notified of proposed decertification by regular mail postmarked at least ten (10) days prior to the proposed date for decertification. The owner or property manager may appeal the decision to decertify by providing written notice to the Waite Park Police Department within fifteen (15) days of the mailing of the decertification notice.
- B. Decertification will not occur following an appeal until the owner or property manager has been afforded an opportunity for hearing before the Waite Park City Council. If the City Council finds the owner or property manager has not maintained compliance with the certification requirements set forth in Subd. 2, the Council will give written notice to the owner or property manager by certified mail within ten (10) days of the hearing date, excluding intervening weekends and holidays, of such findings, and the owner or property manager is decertified.

**Subd. 5.** An owner or property manager who is decertified will not be eligible to reapply for Crime Free Multi-Housing certification for a period of two (2) years following the date of decertification.