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## CHAPTER 19 - PUBLIC NUISANCES AND PETTY OFFENSES

### NUISANCES - GENERALLY

Section 19-101. PUBLIC NUISANCE DEFINED. Whoever, by act or failure to perform a legal duty, intentionally does any of the following is guilty of maintaining a public nuisance, and is punishable as set forth herein:

1. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any number of members of the public; or
2. Interferes with, obstructs, or renders dangerous for passage, public streets, highway or right of way, or waters used by the public; or
3. Is guilty of any other act or omission declared by statutory law, the common law, or this ordinance to be a public nuisance, whether or not any sentence is specifically provided therefor; or
4. Permits real property under his or her control to be used to maintain a public nuisance or rents the same, knowing it will be so used.

Section 19-102. DEFINITIONS. The following words, when used in this ordinance, shall have the meanings ascribed to them:

1. Garbage means all putrescible animal, vegetable or other matter that attends the preparation, consumption, display, dealing in or storage of meat, fish, fowl, birds, fruit, or vegetables, including the cans, containers or wrappers wasted along with such materials. The term includes all material and item included in the definition of mixed municipal solid waste in Minnesota Statutes, section 115A.03, subdivision 21.
2. Rubbish is nonputrescible solid wastes such as wood, leaves, trimmings from shrubs, dead trees or branches thereof, shavings, sawdust, excelsior, wooden waste, printed matter, paper, paper board, paste boards, grass, rags, straw, boots, shoes, hats and all other combustibles not included under the term garbage.

Section 19-103. PUBLIC NUISANCES FURTHER DEFINED. It is hereby declared to be a public nuisance to permit, maintain, or harbor any of the following:

1. Diseased animals, fish or fowl, wild or domestic, whether confined or running at large.
2. Carcasses of animals, fish or fowl, wild or domestic, not buried or destroyed within

24 hours after death.

3. Garbage not stored in rodent free and fly-tight containers, or; garbage stored so as to emit foul and disagreeable odors, or; garbage stored so as to constitute a hazard to public health.
4. Accumulations of rubbish as defined herein.
5. The dumping of any effluent, garbage, rubbish, wastewater, or other noxious substance upon public or private property.
6. Any open well, pit, excavation, structure, barrier or other obstruction which endangers public health, safety or welfare.
7. The pollution of any public or private well or cistern, any public stream, lake, canal, or body of water by effluent, garbage, rubbish or other noxious substance.
8. Any noxious weeds, or any other vegetation which endangers public health, safety or welfare, or which is contraband within the meaning of state or federal laws.
9. The emitting or production of dense smoke, foul odor, noise, noxious fumes, gases, soot, cinders or sparks in quantities which unreasonably annoy, injure, or endanger the safety, health, morals, comfort, or repose of any number of members of the public.
10. The public exposure of persons having a contagious disease or condition which endangers public health, safety or welfare.
11. Accumulation of junk, disused furniture, appliances, machinery, automobiles and parts thereof or any matter which may become a harborage for rats, snakes or vermin, which creates a visual blight, or which may be conducive to fire, or which endangers the comfort, repose, health, safety or welfare of the public.
12. The parking and/or storage of construction equipment, farm vehicles and equipment, or a commercial vehicle with a length greater than 21 feet, or a height greater than 8 feet, or a gross vehicle weight greater than 9,000 pounds, continuously for more than two hours on any property within a residential zoning district or being lawfully used for residential purposes or on any public street adjacent to such properties. Such equipment and vehicles shall include, but are not limited to, the following: dump trucks, construction trailers, back hoes, front-end loaders, bobcats, well drilling equipment, farm trucks, combines, thrashers, tractors, tow trucks, truck-tractors, step vans, cube vans and the like.

The prohibitions of this subdivision shall not apply to the following:

- a) Any equipment or vehicle described above being used by a public utility, governmental agency, construction company, moving company or similar company which is actually being used to service a residence not belonging to or occupied by the operator of the vehicle.
  - b) Any equipment or vehicle described above which is actually making a pickup or delivery at the location where it is parked. Parking for any period of time beyond the time reasonably necessary to make such a pickup or delivery and in excess of the two hour limit shall be unlawful.
  - c) Any equipment or vehicle exceeding the above described length, height or weight limitations, but which is classified as recreation equipment as specified in Minnesota Statutes 168.011, Subdivision 25.
  - d) Any equipment or vehicle described above which is parked or stored on property zoned residential and being lawfully used as a church, school, cemetery, golf course, park, playground or publicly owned structure provided the equipment or vehicle is used by said use in the conduct of its normal affairs.
  - e) Any equipment or vehicle described above which is parked or stored on property which is zoned residential and the principal use is nonconforming within the meaning of Section 35-111 of the City Ordinances, provided such parking or storage is not increased or expanded after the effective date of this ordinance.
13. The outside parking and/or storage on vacant property of usable or unusable vehicles, trailers, watercraft, snowmobiles, recreational vehicles, all-terrain vehicles, construction vehicles and equipment, or similar vehicles, materials, supplies, equipment, ice fish houses, skateboard ramps, play houses or other nonpermanent structures except as may be permitted by the Zoning or Sign Ordinances.
14. The outside parking and/or storage on occupied residentially used property of usable or nonusable vehicles, trailers, watercraft, snowmobiles, recreational vehicles, all terrain vehicles and similar vehicles, materials, supplies, equipment, ice fish houses, skateboard ramps, or other nonpermanent structures unless they comply with the following:

- a) Vehicles, trailers and watercraft may be parked or stored outside in any yard provided, however, if they are parked or stored in the front yard area, or a yard area abutting a public street, they must be parked or stored on an authorized parking or driveway area or a paved or graveled extension of an authorized parking or driveway area and be in compliance with Section 19-1301 through 1305 of the City Ordinances. Authorized driveways and paved or graveled extensions thereof may not exceed 50% of the front yard or a yard area abutting a public street unless approved by the City Council as part of a plan approval for an apartment complex pursuant to Section 35-230 of the City Ordinances.
  - b) Materials, supplies, equipment other than construction or farm equipment, may be stored or located in any yard other than a front yard or a yard abutting a public street provided they are screened from public view by an opaque fence or wall at least six feet high or high enough to prevent these items from being seen from abutting property at ground level.
  - c) All vehicles, watercraft and other articles allowed to be stored outside in an approved manner on occupied residentially used property must be owned by a person who resides on the property. (Persons who are away at school or in the military service for periods of time, but still claim the property as their legal residence shall be considered residents on the property.)
  - d) The prohibitions of this section of the ordinance shall not apply to commonly accepted materials or equipment such as playground equipment, allowable accessory structures, flagpoles, air conditioner condensers, laundry drying equipment, arbors, trellises, properly stacked firewood and temporary storage of building materials for home improvement projects in process.
15. The overnight parking of a commercial vehicle in a parking lot open to the public. For the purposes of this prohibition, a “parking lot open to the public” is any parking lot that is accessible to the general public without the need for payment. A “commercial vehicle” means a truck-tractor, semi-trailer, or any other vehicle, other than a passenger vehicle, with a length great than 21 feet, a height greater than 8 feet, or a gross vehicle weight greater than 9,000 pounds. The prohibition of this section shall not apply to any commercial vehicle that is parked or stored in a parking lot due to an ongoing legitimate business purpose on the property. A commercial vehicle parked in violation of this prohibition may be issued a parking citation and is subject to removal as provided in Section 27-121.

Section 19-104. LIMITATIONS ON KEEPING OF ANIMALS. It is hereby declared to be a public nuisance to permit, maintain or harbor any of the following:

1. More than two (2) dogs exceeding six months of age.
2. More than three (3) cats exceeding six months of age.
3. Any combination of more than five (5) animals exceeding six months of age.
4. Horses, cows, sheep, pigs, goats, swine, mules, llamas, or other hoofed animals, ducks, geese, or other agricultural animal or domestic fowl.
5. Live wild animals, reptile, or fowl, of types that are not naturally tame or gentle but are of a wild nature or disposition that, because of their size, vicious nature, or other characteristics would constitute a danger to human life or property. Examples of such wild animals include, but are not limited to, bears, lions, tigers, jaguars, leopards, bobcat, cougars, cheetahs, lynx, ocelots, wolves, foxes, coyotes, dingoes, jackals, bison, panthers, apes, badgers, raccoons, ferrets, skunks, puma, rattle snakes, coral snakes, water moccasins, or cobras.
6. Any combination of animals and/or fowl of any age kept in such numbers or under conditions which unreasonably annoy, injure, or endanger the health, safety, comfort, repose or welfare of the public or of said animals or fowl.
7. Chickens, except to the extent allowed by Section 1-130 and then only in compliance with that Section.

Section 19-105. ABATEMENT OF NUISANCE AND ASSESSMENT OF COST. When any nuisance is found to exist, the health officer of the City shall order the owner or occupant thereof to remove the same, at the expense of the owner or occupant, within a period not to exceed 10 days, the exact time to be specified in the notice. Said order may be appealed following the same procedures as are set forth in Sections 12-1202 and 12-1203. Compliance orders may be executed and special assessments levied by the City under the same circumstances and following the same procedures as are set forth in Section 12-1206.

Section 19-106. PENALTY. Any person violating any of the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and subject to a fine of not more than \$1,000 and by imprisonment for a period of not exceeding 90 days or both, together with the costs of prosecution. Each day that violation exists shall constitute a separate offense.

#### RELATING TO PETTY OFFENSES IN THE CITY OF BROOKLYN CENTER

Section 19-201. LOITERING. Any persons who shall hereafter be found lurking, lying in wait, or concealed in any house or other building, or in any yard, premises, or street within the limits of the City of Brooklyn Center, with the intent to do any mischief, or to pilfer, or to commit any crime or misdemeanor whatever shall, on conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

Section 19-202. DISTURBING THE PEACE. Any person or persons who shall make, aid, countenance, or assist in making any noise, riot, disturbance, or improper diversion, and all persons who shall collect in bodies or crowds in said City for unlawful purposes, or to the annoyance or disturbance of the citizens or travelers, shall, for each offense, upon conviction thereof, be liable to the same fine and imprisonment provided for in Section 19-201 of this ordinance.

Section 19-203. FIGHTING AND BRAWLING. Every person who engages in brawling or fighting shall be guilty of disorderly conduct and upon conviction thereof shall be liable to the same fine or imprisonment provided for in Section 19-201 of the City Ordinances.

Section 19-204. ASSAULT. Every person who shall commit an assault, or an assault and battery, not amounting to a felony, upon conviction therefor, shall be liable to the same fine or imprisonment provided in Section 19-201 of the City Ordinances.

Section 19-205. THEFT AND RELATED OFFENSES.

Subdivision 1. Every person who commits a theft as defined in Section 609.52 of the Minnesota Criminal Code, Laws of 1963, as amended by Laws of 1976 which is not punishable as a felony under the State law, upon conviction therefor, shall be liable to the same fine or imprisonment as is provided in Section 19-201, the Ordinances of the City of Brooklyn Center.

Subdivision 2. Every person who receives or conceals stolen property as defined in Section 609.53 of the Minnesota Criminal Code, Laws of 1963, as amended by Laws of 1976 which is not punishable as a felony under the State law, upon conviction therefor, shall be liable to the same fine or imprisonment as is provided in Section 19-201 of the Ordinances of the City of Brooklyn Center.

Section 19-206. DRUNKENNESS. Any person who shall be found in a state of open or notorious drunkenness or intoxication in any street or public place within the limits of the City of Brooklyn Center, be liable to the punishment and penalties provided in Section 19-201 of this ordinance.

Section 19-207. INDECENT CONDUCT. No person shall appear in any street or public or exposed place in said City in a state of nudity, or any dress not belonging to his or her sex, or in any indecent or lewd dress, nor shall any person in any public place or in any automobile driven or parked on the highway indecently expose his or her person or commit any obscene, filthy, lewd, or indecent act, or speak any indecent, lewd, or immoral language, or perform any indecent, immoral or lewd play or representation; and no person shall in any place exhibit, sell, offer to sell, or have in his or her possession with intent to exhibit, sell, or offer to sell indecent, obscene, or lewd book, picture or other thing, and no person in speaking to or with another person over any telephone line shall use any profane, immoral, indecent, or obscene language. Any person violating any provision of this section shall be liable, upon conviction thereof, to the punishment and penalties provided in Section 19-201 of this ordinance.

Section 19-208. CONTRIBUTING TO DELINQUENCY OF MINOR. Any person who by act, word, or omission encourages, causes or contributes to the neglect or delinquency of a child, and such act, word or omission is not by provisions of State law declared to be a felony, upon conviction therefor, shall be liable to the same fine or imprisonment provided in Section 19-201 of the City Ordinances.

Section 19-209. INDECENT SWIMMING OR BATHING. No person shall swim or bathe in the Mississippi River or any creek, lake, stream, or pond within the limits of the City of Brooklyn Center unless he or she is wearing a bathing suit. Any person violating the provisions of this section shall, upon conviction thereof, be liable to the same fine or imprisonment provided for in Section 19-201 of the City Ordinances.

Section 19-210. PUBLIC BATHING HOURS. Section 616.14 of the Minnesota Statutes is hereby adopted by reference and shall have the same force and effect as though set out at length herein, and persons convicted of a violation thereof shall be liable to the same fine or imprisonment provided for in Section 19-201 of the City Ordinances.

Section 19-211. MALICIOUS DESTRUCTION OF PROPERTY. Every person who willfully injures, damages, or destroys the property whether real or personal of another without their consent, upon conviction therefor, shall be liable to the same fine or imprisonment provided in Section 19-201 of the City Ordinances.

Section 19-212. CRUEL TREATMENT TO ANIMALS. Any person who shall inhumanly, unnecessarily, cruelly or wantonly beat, injure, or otherwise abuse any dumb animal within the City of Brooklyn Center shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

Section 19-213. VAGRANCY DEFINED. Any person who shall have no visible means of support, and live idly without employment or settled place of abode, or loiter about the streets, pool halls, restaurants, or other such places, or who shall be found trespassing on private property and not able to account for his or her presence, shall be deemed a vagrant.

Section 19-214. VAGRANCY PROHIBITED. No vagrant shall be permitted on the streets or in any public place or elsewhere in this municipality.

Section 19-215. PENALTY. Any vagrant found within the limits of this municipality shall be subject to arrest and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

Section 19-216. TRESPASS.

Subdivision 1. DEFINITIONS.

- a. The term "store" shall mean a retail business including a restaurant, store, motel, or office where professional services are rendered; which is open to the public, including any shopping area, office building, shopping center or shopping mall.
- b. The term "storekeeper" shall mean the owner, operator or agent of any retail business, office building, shopping area, shopping center or shopping mall, including an authorized security or police officer.
- c. The term "common area" shall mean any privately owned parking lot, restroom facility, walkway, seating area, hallway, atrium or other area designated or used by the general public in areas such as stores or shopping areas.
- d. The term "shopping area" shall mean any enclosed or open indoor or outdoor facility consisting of a group of stores or offices open to the public.

Subdivision 2. PROHIBITION.

- a. No person shall enter or remain in any store or common area of any shopping area after being ordered to leave by the storekeeper.
- b. No person who has received a written notice in substantial conformity to the requirements of subdivision 3 shall enter in or remain upon the store covered by the notice without written permission of the storekeeper during the period stated in the notice, which period shall not be in excess of one year from the date of issuance. Notice may be by personal service or certified mail.

Subdivision 3. NOTICE AND ORDER.

- a. A storekeeper may issue a notice in writing to a person whom the storekeeper has reasonable cause to believe has committed an act prohibited by the criminal laws of this state, the United States, or an ordinance of this city in the store, common area or shopping area where the store is located. Such notice shall be served immediately or within a reasonable time after the offense is believed to have occurred.

b. A notice and order shall substantially conform to the following:

NAME OF ESTABLISHMENT

NOTICE AND ORDER

TO: Name: \_\_\_\_\_ D.O.B. \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

You are hereby advised to leave and not return to the following premises \_\_\_\_\_

for a period effective immediately and expiring \_\_\_\_\_

You are further advised that violation of this Notice and Order could subject you to criminal prosecution under Brooklyn Center City Code, Subsection 19-216, Subdivision 2.

Date Issued: \_\_\_\_\_ Time: \_\_\_\_\_

Name of Company: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Witnesses: \_\_\_\_\_

Witnesses should sign only if personally observing service of a copy of this Notice to the above-named individual.

Subdivision 4. PENALTIES. A violation of this ordinance shall be punished as a petty misdemeanor unless the violation is accompanied by force or violence or the threat thereof, or the person has previously violated this subsection within the preceding twelve (12) months, in which case the violation shall be a misdemeanor.

Section 19-217. CONDUCT IN OR NEAR SCHOOL BUILDINGS OR GROUNDS.

Subdivision 1. DEFINITIONS. As used in this section, the following terms shall mean:

a. "Public school" shall be any school building, school grounds, play area, parking lot or athletic field owned or leased by a public school district.

- b. "School official" shall be the principal, assistant or associate principal, school security person, any schoolteacher, or the principal's designee.

Subdivision 2. PROHIBITION. No person shall trespass in or upon any public school by remaining upon said school premises after being ordered to leave the public school by a school official.

Subdivision 3. PERMISSION REQUIRED FOR RE-ENTRY. No person, having been ordered by a school official to leave a public school and having left said premises, shall re-enter said public school without the written permission of the school principal or the school official who gave the order to leave the public school.

Subdivision 4. DEFACEMENT OF SCHOOL BUILDINGS. No person shall mark with ink, paint, chalk or other substance, or post hand bills on, or in any other manner deface or injure fences, trees, lawns or fixtures appurtenant to or located on the public school. No signs shall be placed or posted anywhere on a public school without the express permission of a school official.

RELATING TO FIREARMS, FIREWORKS AND OTHER  
DANGEROUS DEVICES IN THE CITY OF BROOKLYN CENTER

Section 19-401. HUNTING AND DISCHARGING OF FIREARMS.

1. Prohibition. All hunting with firearms and bow and arrows and discharging of firearms within the City of Brooklyn Center is hereby prohibited.
2. Exceptions: The provisions of this ordinance shall not apply to:
  - a. members of duly organized gun clubs shooting or practicing on lands owned or leased by their club and licensed by the City; or
  - b. trap shooters shooting on grounds selected for that purpose by the City; or
  - c. firing salutes over the graves of soldiers; or
  - d. the harvesting of deer pursuant to a Deer Management Plan adopted by the City Council as allowed under permit issued by the City Manager or City Manager's designee and subject to any conditions and limitations established by the City Manager.

Section 19-402. DANGEROUS WEAPONS AND FACSIMILE FIREARMS.

Subdivision 1. Definitions.

- a. "Dangerous weapon" means any firearms, airgun or pellet gun, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
- b. "Facsimile firearm" means any object which is a replica of an actual firearm, which substantially duplicates an actual firearm or which could reasonably be perceived to be an actual firearm, unless
  1. The entire exterior surface of such object is colored white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or such object is constructed entirely of transparent or translucent materials which permit unmistakable observation of the object's complete contents; and
  2. Such object has a blaze orange extension that extends at least six (6) millimeters from the muzzle end of the barrel of such object which is as an integral part of the object and is permanently affixed; and
  3. Such object does not have a laser pointer attached to it.

“Facsimile firearm” does not include any actual firearm as otherwise regulated by the City Code or by the Minnesota Statutes.

Subdivision 2. The provisions of the Minnesota Statutes regulating firearms and dangerous weapons and as they hereinafter may be amended, are incorporated into this section. It shall be a violation of this section for any person to engage in any conduct proscribed in the incorporated statutes.

Subdivision 3. Carrying of Dangerous Weapons and Facsimile Firearms Prohibited. It shall be unlawful for any person within the City to carry on or about his or her person or transport in any vehicle any dangerous weapon or facsimile firearm, except:

- a. Any dangerous weapon or facsimile firearm being transported by a person not in a vehicle directly to or from any place or activity referred to in Section 19-401 or to and from his or her vehicle, in a secured container.
- b. Transportation of any dangerous weapon or facsimile firearm in or upon any motor vehicle in a secured container or in the locked trunk of such a vehicle.

The provisions of this section shall not be applicable to the transport of dangerous weapons or facsimile firearms by persons who are regularly engaged in the lawful manufacture, distribution or sale at retail or wholesale of dangerous weapons or facsimile firearms, or the agents of any of them while engaged in such business; to the carrying or transport of dangerous weapons or facsimile firearms by licensed, full-time peace officers, law enforcement officers, or military personnel while in the course of their duties; to persons holding a permit to carry a dangerous weapon acting within the scope of such permit; to any officer of a state adult correctional facility when on guard duty or otherwise engaged in an assigned duty; or to an owner or agent while he or she is present at a business place that he or she operates.

Subdivision 4. Aiming Prohibited. Except as authorized by law, the aiming of any deadly weapon or facsimile firearm, whether loaded or unloaded, at or toward any human being, building or occupied vehicle is prohibited.

Section 19-403. SALE AND USE OF FIREWORKS.

Subdivision 1. Minnesota Statutes Sections 624.20 to 624.25 are hereby adopted by reference and shall have the same force and effect as though fully set forth herein.

Subdivision 2. Fireworks Defined. The term “fireworks” means any substance or a combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons that require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers, other than those specified in Subdivision 3, or other fireworks of like construction, and any other fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks. The term “fireworks” shall not include toy pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps that contain less than 20/100 grains of explosive mixture. The term “fireworks” also does not include those items defined as “consumer fireworks” in Subdivision 3.

Subdivision 3. Consumer Fireworks Defined. The term “consumer fireworks” means wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items that are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 500 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include party streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

Subdivision 4. License Required. It is unlawful to sell consumer fireworks without a valid license issued by the City.

Subdivision 5. License Application. The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location where fireworks will be sold; the type of consumer fireworks to be sold; the estimated quantity of consumer fireworks that will be stored on the licensed premises. If the applicant does not own the business premises, a true and correct copy of the current, executed lease, as well as the written authorization of the property owner for the applicant’s use of the property for the sale of consumer fireworks must be included with the application.

Subdivision 6. Processing Application. The application must be filed with the City Manager or the Manager’s designee, together with the license fee. Following an inspection of the premises proposed to be licensed, the City Manager or the Manager’s designee shall issue the license if the conditions for license approval are satisfied and the location is properly zoned. If the City Manager or the Manager’s designee denies the license

application, the applicant may, within ten (10) days, appeal the decision to the City Council.

Subdivision 7. Prohibition on Use. The use of consumer fireworks on public property is prohibited.

Subdivision 8. Conditions on License. A violation of any condition in paragraphs (a) through (i) of this subdivision may be a basis for the City to revoke the license under subdivision 11 of this Section or may subject the licensee to a penalty under Section 19-404.

- a. Consumer fireworks shall not be sold to persons younger than 18 years of age. The age of a purchaser must be verified by photographic identification.
- b. Consumer fireworks shall only be stored and sold in those areas or zones within the City where commercial or industrial activities are authorized under the applicable zoning laws of the City.
- c. Consumer fireworks shall only be stored in and/or sold from buildings or retail stands that comply with National Fire Protection Association Standard 1124 (2003 edition) as required under Minn. Stat. § 624.20(d) (2).
- d. The license must be publicly displayed on the licensed premises.
- e. The premises are subject to inspection by City employees during normal business hours.
- f. The applicant must be at least 18 years of age.
- g. The applicant shall not have had a license to sell fireworks revoked within the last three years.
- h. The premises must be in compliance with the State Building Code and State Fire Code.
- i. The license is non-transferable, either to a different person or location.

Subdivision 9. License Period and License Fee. Licenses shall be issued for a calendar year. The license fee shall be established annually by resolution. License fees shall not be prorated.

Subdivision 10. Revocation of License. Following written notice and an opportunity for a hearing, the City Manager or the Manager's designee may revoke a license for violation of this Section or state law concerning the sale, use or possession of fireworks. If a license is revoked, neither the applicant nor the licensed premises may obtain a license for three (3) years. If the City Manager or the Manager's designee revokes a license, the license holder may within ten (10) days appeal the decision to the City Council.

Section 19-404. PENALTY. Any person convicted of violating any of the Sections 19-401 through 19-403 may be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

CITY PROPERTY

PROHIBITING DESTRUCTION OR THEFT OF CITY PROPERTY  
AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF

Section 19-501. DAMAGING CITY PROPERTY. It is unlawful for any person to knowingly or willfully steal, destroy, damage, mar, deface or otherwise injure or wrongfully appropriate any property owned by the City of Brooklyn Center including any real or personal property, or any utility installation or part thereof, whether owned by the City or any department or agency of the City.

Section 19-502. PENALTY. Any person violating the foregoing section shall, upon conviction, therefor be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

RELATING TO THE ISSUANCE OF BAD CHECKS AND  
PROVIDING A PENALTY THEREFOR

Section 19-601. ISSUANCE OF WORTHLESS CHECK.

1. Definition. – "Credit" means an arrangement or understanding with the drawee for the payment of the check or other order for the payment of money to which this section applies.
2. Acts Constituting. Whoever issues any check or other order for the payment of money which, at the time of issuance, he intends shall not be paid shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.
3. Proof of Intent. Any of the following is evidence sufficient to sustain a finding that the person at the time he issued the check or other order for the payment of money, intended it should not be paid:
  - a. Proof that, at the time of issuance, he did not have an account with the drawee; or
  - b. Proof that, at the time of issuance, he did not have sufficient funds or credit with the drawee and that he failed within five days after receiving notice of nonpayment or dishonor to pay the checks or other order; or
  - c. Proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and that he failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
4. Proof of Lack of Funds or Credit. If the check or other order for the payment of money has been protested, the notice of protest thereof is admissible or proof of presentation, nonpayment, and protest, and is evidence sufficient to sustain a finding that there was a lack of funds or credit with the drawee.
5. Exceptions. This section does not apply to a postdated check or to a check given for a post consideration, except a payroll check.

PROHIBITING DOOR-TO-DOOR SOLICITATION UNDER  
CERTAIN CIRCUMSTANCES AS A NUISANCE

Section 19-701. NUISANCE. The practice of going in and upon private residences in the City of Brooklyn Center by solicitors, hawkers, itinerant merchants and transient vendors, for the purpose of soliciting orders for the sale of goods, wares, merchandise, or services of any kind, or for the purpose of peddling the same when the owner or occupant of said private residence has placed upon or near the usual entrance to such residence a printed placard bearing the notice: "PEDDLERS AND SOLICITORS PROHIBITED" in printing not smaller than 48 point type, or remaining in or upon such private residence after the owner or occupant thereof had indicated to said solicitor, peddler, hawker, itinerant merchant or transient vendor that his goods, wares, or merchandise are not wanted, or that his presence in or upon said residence is not wanted, is hereby declared to be a nuisance.

Section 19-702. PENALTY. Anyone violating any provision of this ordinance, upon conviction thereof, shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

REGULATING THE CARRYING OF PISTOLS OR REVOLVERS

Section 19-801. DEFINITIONS. As used herein the words "pistol" or "revolver" shall mean any firearm with a barrel less than twelve inches in length.

Section 19-802. MINORS. No person within the corporate limits of the City of Brooklyn Center shall carry a pistol or revolver upon his person or in any vehicle who is not a citizen of the United States, or who is not 18 years of age, except those under the age of 18 years who are active and regularly enrolled members of an adult target shooting, pistol club, or sportsmen's club, which is duly authorized to purchase or receive weapons from the United States, provided such members of such club are at, or are going to or from their places of assembly or target practice.

Section 19-803. PERSONS CONVICTED OF CRIMES. No person within the corporate limits of the City of Brooklyn Center shall carry a pistol or revolver upon his person, or in any vehicle who has been convicted of a felony by the courts of this state or any other state, or by the courts of the United States, or who has been convicted anywhere of acts which, if committed in Minnesota, would constitute assault in the first or second degree, larceny, theft, unlawful entry, extortion, buying or receiving stolen property, using, and carrying or possession of burglar tools or weapons, escape, or who has been convicted in any other country of acts which, if done in Minnesota, would be a felony or would constitute any of the other offenses specified above, or has been adjudged mentally incompetent.

Section 19-804. PERSONS UNDER INFLUENCE OF LIQUOR OR NARCOTICS. No person within the corporate limits of the City of Brooklyn Center who is under the influence of intoxicating liquor or narcotic drugs shall carry a pistol or revolver upon his person or in any vehicle.

Section 19-805. PENALTY. Any person violating the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

#### PROHIBITING OBSTRUCTION OF SIDEWALKS AND WALKWAYS

Section 19-901. OBSTRUCTION PROHIBITED. It shall be unlawful for any person to physically obstruct or to be responsible for physically obstructing a public sidewalk or walkway.

Section 19-902. PENALTY. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

#### PROVIDING FOR THE ABATEMENT OF ABANDONED MOTOR VEHICLES

Section 19-1001. PURPOSE. Abandoned motor vehicles constitute a hazard to the health and welfare of the people in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well being of children and other citizens. Abandoned motor vehicles also constitute a blight on the landscape of the City, and, therefore, a detriment to the environment. It is, therefore, in the public interest that accumulation of abandoned motor vehicles be eliminated and that abandonment of motor vehicles be prevented.

#### Section 19-1002. DEFINITIONS.

1. Motor Vehicle. "Motor Vehicle" means every device designed to be self-propelled in, upon or by which any person or property is transported upon a street or highway.
2. Person. "Person" means every natural person, partnership, joint venture or corporation.
3. Right of Way. "Right of way" means the entire area of land owned or controlled by government jurisdictions and used or held for vehicular or pedestrian traffic.

Section 19-1003. NUISANCE DECLARED. A motor vehicle abandoned upon any public right-of-way or private property within the City of Brooklyn Center is hereby declared to be a public nuisance. The following shall constitute prima facie evidence of abandonment, but shall not be the exclusive criteria of abandonment:

1. The stationary presence of a motor vehicle upon the public right-of-way for a period of more than 48 hours.
2. The stationary presence of a motor vehicle upon private property for a period of more than 48 hours without the consent of the person in control of the property.
3. The presence upon the public right-of-way of a dismantled motor vehicle or a motor vehicle lacking vital component parts essential to the mechanical functioning of the vehicle.

Section 19-1004. REMOVAL, IMPOUNDMENT AND DISPOSAL. Representatives of the City of Brooklyn Center are authorized to remove abandoned motor vehicles and impound and dispose of them according to the provisions of Chapter 2 of the Ordinances of the City of Brooklyn Center.

Section 19-1005. PENALTY. It shall be unlawful for any person to abandon a motor vehicle on any public or private property and upon conviction of such an offense a person shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than ninety (90) days, or both, together with the costs of prosecution.

ESTABLISHING STANDARDS FOR THE OPERATION OF DRIVE-IN RESTAURANTS  
AND DEFINING UNLAWFUL CONDUCT THEREIN

Section 19-1101. DEFINITIONS.

- a. Drive-in Restaurant. A drive-in restaurant is any restaurant where meals, sandwiches, cold drinks, ice cream, beverage or other food or drink is served directly to or is permitted to be consumed in motor vehicles parked on the premises.
- b. Motor Vehicle. A motor vehicle as defined herein means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices moved by human power.

Section 19-1102. DUTY OF OWNER.

- a. The owner, lessee or operator of any drive-in restaurant shall maintain quiet and good order upon the premises and shall not permit disorderly or immoral conduct or loitering thereon, nor shall he cause or permit any noise or nuisance on the parking area of the drive-in restaurant whereby the quiet and good order of the neighborhood are disturbed.
- b. The owner, lessee or operator of any drive-in restaurant shall provide no less than two receptacles or receipt of trash, litter, paper napkins, cups and remnants of food at appropriate locations on the premises.
- c. The owner, lessee or operator of any drive-in restaurant shall post on the premises, in a conspicuous location one or more signs bearing the following legend:

"Cruising in or congregating or loitering outside of a motor vehicle is unlawful. No unoccupied vehicles may be left on the premises without the consent of the restaurant operator."

Section 19-1103. FORBIDDEN CONDUCT. Whoever does any of the following in a drive-in restaurant knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke as assault or breach of the peace, is guilty of disorderly conduct and shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

- a. Engage in brawling or fighting; or
- b. Engage in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others.
- c. Operates, drives, stops, races or parks a motor vehicle carelessly or heedlessly in disregard of the rights and safety of any other person.

Section 19-1104. PENALTY. The following acts or conduct of any person or persons entering any drive-in restaurant premises are hereby declared to be unlawful, and any person found guilty of any such act may be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

- a. Entering the premises of any drive-in restaurant in a motor vehicle and parking said vehicle and leaving the premises without getting the consent of the owner or operator of said restaurant; in which event vehicle may be impounded subject to the usual impounding charges.

- b. Entering the premises of any drive-in restaurant in a motor vehicle, parking the vehicle and leaving it unoccupied for a period in excess of thirty (30) minutes, without consent of the owner.

Section 19-1105. UNLAWFUL ASSEMBLY. When three or more persons assemble, each participant is guilty of unlawful assembly, and may be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution, if the assembly is:

- a. With the intent to commit any unlawful act by force; or
- b. With the intent to carry out any purpose in such a manner as will disturb or threaten the public peace; or
- c. Without unlawful purpose, but the participants so conduct themselves in a disorderly manner as to disturb or threaten the public peace.

Section 19-1106. ALCOHOLIC BEVERAGE ON PREMISES. It shall be unlawful for any person to consume any alcoholic beverage on the premises of any drive-in restaurant, and upon conviction of said offense any person may be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

Section 19-1107. SEVERABILITY. That if any section, subsection, paragraph or provision of this ordinance shall be held invalid for any reason whatsoever, such invalidity shall not affect the remaining portions of this ordinance, which shall remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 19-1108. PENALTY. Any person found guilty of violating any of the provisions of this ordinance shall be punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

REGULATING THE POSSESSION AND PURCHASE OR DELIVERY OF  
BARBITURATES AND OTHER PROHIBITED DRUGS AND PROVIDING  
PENALTIES FOR THE VIOLATION THEREOF

Section 19-1120. DEFINITIONS.

Subdivision 1. Prohibited Drug. As used herein the term "prohibited drug" means:

- a. Barbitol and any derivative thereof; including but not limited to the following: diethylbarbituric acid; any alkyl, aryl, metallic or halogenated derivative of barbituric acid; veronal (barbitone); propional, ipral; dial; neonal (soneryl); sandoptal; amytal; phenobarbital (luminal); phandorn; noctal; allonal (which contains allylisopropyl-barbituric acid in combination with amidopyrine) medianl;

any preparation, mixture or other substance containing any of the foregoing substances.

- b. Amphetamine and any derivatives thereof including but not limited to such substances as follows: desoxyephedrine (methamphetamine) mephentermine, pipradol, phenmetrazine, methylphenidate or any salt mixture or optical isomer thereof which salt mixture or optical isomer has a stimulating effect on the central nervous system.
- c. Chloral Hydrate (Chloral); Chlordiazepoxide and its salts (Livrium); Diazepam (Valium); Ethchlorvynol (Placidyl); Ethinamate (Valmid); Glutethimide (Doriden); Meprobamate (Miltown, Equanil, Meprospan, Moprotabs); Methyprylon (Noludar); Paraldehyde.

Subdivision 2. Deliver. The term "deliver" means sale, offer for sale, barter, exchange, administering, dispensing, giving away, distributing, or supplying in any other manner. The term delivery as herein defined shall include the attempt to do such acts as well as the actual completed commission thereof.

Subdivision 3. Patient. The term "patient" means, as the case may be (a) the individual for whom a prohibited drug is prescribed or to whom a prohibited drug is administered, or (b) the owner or the agent of the owner of any animal for which a prohibited drug is prescribed or to which a prohibited drug is administered.

Subdivision 4. Person. The term "person" includes individual, corporation, partnership, and association.

Subdivision 5. Practitioner. The term "practitioner" means a person licensed by law to prescribe and administer any of the prohibited drugs as defined above.

Subdivision 6. Pharmacist. The term "pharmacist" means a person duly licensed and registered with the Minnesota State Board of Pharmacy as a registered pharmacist.

Subdivision 7. Prescription. The term "prescription" means a written or oral order by a practitioner to a pharmacist for a prohibitive drug or stimulant for a particular patient, which specifies the date of its issue, the name and address of such practitioner, the name and address of the patient (and, if such barbiturate or stimulant is prescribed for an animal, the species of such animal), the name and quantity of the prohibited drug prescribed, the directions for use of such drug, and in the case of a written order the signature of such practitioner. An oral order by a practitioner for a prohibitive drug must be promptly reduced to writing by the pharmacist.

Subdivision 8. Manufacturer. The term "manufacturer" means persons other than pharmacists who prepare drugs in dosage forms by mixing, compounding, encapsulating,

entabulating, or other process.

Subdivision 9. Wholesaler. The term "wholesaler" means persons engaged in the business of distributing prohibited drugs to persons included in any of the classes named in Section 19-1122.

Subdivision 10. Warehouseman. The term "warehouseman" means persons who store prohibited drugs, for others and who have no control over the disposition of such prohibited drugs or stimulants except for the purpose of such storage.

Section 19-1121. UNLAWFUL POSSESSION, DELIVERY OR PURCHASE. It is unlawful for any person to have in possession, purchase, or to deliver as herein defined any prohibited drug as defined in Section 19-1120 hereof, except on a lawful prescription by a practitioner.

Section 19-1122. EXCEPTED LAWFUL BUSINESSES AND PROFESSIONS. Section 19-1121 of this ordinance shall not apply to the following in the ordinary course of their trade, their business, or profession provided, however, this exception shall not be a defense to the doing of the acts prohibited in said Section 19-1121 or 19-1123 hereof:

Subdivision 1. Practitioners

Subdivision 2. Pharmacists

Subdivision 3. Manufacturers

Subdivision 4. Pharmacists as manufacturers

Subdivision 5. Wholesalers

Subdivision 6. Warehousemen

Subdivision 7. Persons engaged in transporting such prohibited drugs as agent or employee of a practitioner, pharmacist, manufacturer, warehouseman, wholesaler, common carrier.

Subdivision 8. Public officers or public employees in the performance of official duties requiring possession or control of such prohibited drugs, or persons aiding such officers or employees in the performance of such duties.

Subdivision 9. Any patient as herein defined with respect to procuring, possession and use of a prohibited drug in accordance with the terms of a prescription and prescribed treatment.

Subdivision 10. Persons who procure, possess or use such drugs for the purpose of lawful research, teaching or testing, and not for sale.

Subdivision 11. Lawfully licensed and registered hospitals or bona fide institutions wherein sick or injured persons are cared for and treated, or by bona fide hospitals for the treatment of animals.

Section 19-1123. UNLAWFUL PROCURING, PURCHASE, DELIVERY OR POSSESSION. No person shall, nor attempt to possess or have in his control or possession to purchase, or deliver a prohibited drug.

Subdivision 1. By fraud, deceit, misrepresentation, or

Subdivision 2. By the forgery or alteration of a prescription, or

Subdivision 3. By the concealment of a material fact, or

Subdivision 4. By the use of a false name or the giving of a false address, or

Subdivision 5. By making a false statement in any prescription, order, report, or record relative to a prohibited drug, or

Subdivision 6. By falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, warehouseman, pharmacist, practitioner, or other person described in Section 19-1122 hereof.

Subdivision 7. By making, issuing or uttering any false or forged prescription.

Section 19-1124. CONFISCATION AND DISPOSITION OF PROHIBITED DRUGS. Any prohibited drugs found in the possession of any person convicted of a violation of this ordinance shall be confiscated and shall be forfeited to the chief of police who shall make proper and timely disposition thereof by destroying them.

Section 19-1125. USE OF ORIGINAL CONTAINERS AND LABELS REQUIRED. All patients having possession of any prohibited drugs, by lawful prescription of practitioner while such prohibited drugs are lawfully in such person's possession, shall keep such prohibited drugs in the original container in which they were delivered until used in accordance with such prescription, and shall not remove the pharmacist's original label identifying the prescription from such original container.

Section 19-1126. PENALTY. Any person violating the provisions of this ordinance upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

## REGULATING THE SALE AND POSSESSION OF CODEINE

Section 19-1130. SALES, ETC. OF CODEINE PROHIBITED, AND EXCEPTION. No person shall administer, dispense, sell, barter, exchange or offer for sale, give away, distribute, deliver, or supply in any manner, when he knows or can by reasonable diligence ascertain, that such administering, dispensing, selling, bartering, exchanging or offering for sale, give away, distribute, deliver, supply, or in any manner provide codeine or any of its salts to the person to whom or for whose use such preparation is administered, dispensed, sold, bartered, exchanged or offered for sale except pursuant to a lawful prescription issued by a practitioner duly licensed under the laws of the State of Minnesota.

Section 19-1131. PURCHASE AND POSSESSION PROHIBITED, AND EXCEPTION. No person shall purchase or have in his possession codeine or any of its salts, except pursuant to a lawful prescription issued by a practitioner duly licensed under the laws of the State of Minnesota.

Section 19-1132. PENALTY. Any person violating the provisions of this ordinance, upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

PROHIBITING THE INHALING, BREATHING OR DRINKING OF CERTAIN  
SUBSTANCES COMMONLY KNOWN AS GLUE AND REGULATING THE  
PURCHASE, SALE AND POSSESSION THEREOF

Section 19-1135. INHALING, BREATHING, DRINKING OF CERTAIN SUBSTANCES PROHIBITED. No person shall inhale, breathe or drink, or be or become intoxicated by reason of inhaling, breathing, or drinking any substance commonly known as glue, adhesive, cement, mucilage, dope, solvents, lacquer, drugs, fingernail polish and lacquer, nail polish remover, or thinners for the above named substances, nor any substance containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethel ketone, trichoroathane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other substance which contains ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons, or any other similar ingredient which releases toxic vapors for the purpose of inducing symptoms of intoxication, elation, excitement, confusion, dizziness, paralysis, irrational behavior, or in any manner change, distort or disturb the balance, coordination or the audio, visual, or mental processes.

Section 19-1136. PURCHASE, SALE, OR POSSESSION REGULATED. No person shall, for the purpose of violating or aiding another to violate any provision of this ordinance, intentionally possess, buy, sell, transfer possession, or receive possession of any glue containing the intoxicating substances defined in Section 19-1135.

Section 19-1137. SELF SERVICE DISPLAY PROHIBITED. Retail establishments selling glue containing the intoxicating substances defined in Section 19-1135 shall not sell such glue from a self service display.

Section 19-1138. PENALTY. Any person violating the provisions of this ordinance, upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

## PROVIDING FOR THE ABATEMENT OF NOISE

Section 19-1201. PURPOSE. It is recognized that loud, unpleasant, raucous or prolonged noise can and does have a harmful, debilitating and detrimental effect upon human beings, adversely affecting their mental and physical health, safety and well being. Such loud, unpleasant, raucous or prolonged noise and the resulting detrimental, debilitating and harmful effects upon human beings has become a major contemporary urban concern and is now considered to be a pollutant, not dissimilar to the pollution of the air and water by toxins or particulates. In an endeavor to provide for the mental and physical health, safety, well-being and peaceful repose of its citizens and their neighborhoods, it is hereby declared to be in the public interest that loud, unpleasant, raucous, unnecessary or prolonged noise be abated.

Section 19-1202. NOISE ABATEMENT. No person shall congregate because of, participate in, or be in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of persons residing in any residential area. No person shall visit or remain within any residential dwelling unit wherein such party or gathering is taking place except persons who have gone there for the sole purpose of abating said disturbance. A police officer may order all persons present in any group or gathering from which such noise emanates, other than the owners or tenants of the dwelling unit, to immediately disperse in lieu of being charged under this ordinance. Owners or tenants of the dwelling unit shall immediately abate the disturbance and, failing to do so, shall be in violation of this ordinance.

Section 19-1203. PROHIBITED NOISE NUISANCES. The following are declared to be public nuisances and are prohibited within the City.

Subdivision 1. No person shall play, use, or operate on public or private property any radio, tape or disc player, musical instrument, phonograph, or other machine or device for the production or amplification of sound in such a manner, considering the time and place and the purpose for which the sound is produced, as to unreasonably disturb the peace, quiet, or repose of a person or persons of ordinary sensibility.

Subdivision 2. The play, use, or operation of any radio, tape or disc player, musical instrument, phonograph, or other machine or device for the production or amplification of sound in such a manner as to be plainly audible at a distance of fifty (50) feet from said machine or device shall be prima facie evidence of a violation of this section.

Subdivision 3. When sound violating this section is produced by a machine or device that is located in or on a vehicle, the vehicle's owner is not present, the person in charge of the vehicle at the time is guilty of the violation.

Subdivision 4. This section shall not apply to sound produced by the following:

- a. Amplifying equipment used in connection with activities for which permits have been granted;
- b. Anti-theft devices; and

- c. Machines or devices for the production of sound on or in authorized emergency vehicles.

Subdivision 4. To run or operate a recreational vehicle, as defined in Section 27-901, in a manner so as to create an unreasonably loud, disturbing, unnecessary, or unusual noise which is likely to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of ordinary sensibilities who might be in its vicinity.

Section 19-1204. PENALTY. Any person violating the provisions of Sections 19-1201 through 19-1203 shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days, or both, together with the costs of prosecution.

REGULATING THE OPERATING, PARKING, STORING, REPAIRING, SERVICING  
AND MAINTAINING OF VEHICLES

Section 19-1301. INTENT AND CONSTRUCTION. The collection of unused and unusable motor vehicle bodies, parts, engines and related accessories having become a common occurrence in the community, and such collection having become a visual blight and source of danger to the physical and mental well being of children and adults within the community, and such collection having become a visual blight and source of concern and complaint by citizens of the community, this vehicle ordinance is enacted for the purpose of prohibiting the collection and maintaining of such motor vehicle bodies, parts, engines and related accessories. Nothing in Sections 19-1301 through 19-1307 is intended to restrict the abatement of abandoned vehicles as regulated in City Code Section 19-1001 or the towing of illegally parked vehicles under City Code Section 27-121.

Section 19-1302. DEFINITIONS. The following words and terms are defined as follows:

- a. PERSON: Any natural person, property owner, tenant, occupant, lessee, firm, association, partnership or corporation, and agent of any of the aforesaid, except duly licensed new and used car dealers, while engaged in the lawful operation of their business.
- b. IMPOUND: To take and hold a vehicle in legal custody.
- c. INOPERABLE OR JUNK VEHICLE: Any vehicle that does not have a current vehicle license for operation within the State of Minnesota; or that is not in operable condition, or that is placed on jacks, blocks, or other supports; or that is partially dismantled; or that is used for sale of parts, or as a source of repair or replacement parts for other vehicles; or that is kept for scrapping, dismantling, or salvage of any kind; or that is otherwise in a condition that renders it unlawful to operate on public streets in the State of Minnesota.

- d. **VEHICLE:** Any vehicle, motor vehicle, semi-trailer, or trailer as defined in M.S. § 169.01, as it may be amended from time to time, including pioneer, classic collector and street rod vehicles, demolition vehicles, race cars or any machine or equipment propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery. It also includes, without limitation, automobile, truck, trailer, motorcycle and tractor.

Section 19-1303. **PARKING AND STORAGE.** No person shall park, keep, place or store, or permit the parking or storage of an inoperable or junk vehicle on a public street, alley, or public property in the City for more than 6 hours or on any private lands or premises in the City for longer than 48 hours with the following exceptions:

- a. the vehicle is located within an enclosed building on such premises; or
- b. the vehicle is located on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or
- c. the vehicle is located in an appropriate storage place or depository maintained in a lawful place and manner by the City.

Section 19-1304. **STORAGE OF PARTS, ENGINES, AND RELATED ACCESSORIES.** No person shall store or keep parts, engines and related accessories on a public street or alley or on any private lands or premises in the City unless such parts, engines, and related accessories are kept or stored within an enclosed building in compliance with City codes.

Section 19-1304.5. **ABATEMENT OF AN INOPERABLE OR JUNK VEHICLE.** A vehicle found in violation of Section 19-1303 is considered a public nuisance and may be impounded by the City Manager or the Manager's designated agent. Vehicles that are in violation of Section 19-1303 only by reason of failure to be properly licensed will not be impounded until 90 days after expiration of the vehicle's license

- a. Notice and hearing. Before impounding a junk vehicle or inoperable vehicle, the Manager or designated agent must give 10 days' written notice through service by mail, by posting a notice on the property, or by personal delivery to the owner of, or person in control of, the property on which the vehicle is located. When the property is occupied, service upon the occupant is deemed service upon the owner. Where the property is unoccupied or abandoned, service may be by mail to the last known owner of record of the property or by posting on the property. The notice must state:
  - (1) A description of the vehicle;
  - (2) That the vehicle must be moved or properly stored or otherwise brought into compliance with Section 19-1303 within 10 days of service of the notice;

- (3) That if the vehicle is not removed or properly stored or otherwise brought into compliance with Section 19-1303 as ordered, the vehicle will be towed and impounded at an identified location;
  - (4) That the vehicle may be reclaimed in accordance with the procedures contained in M.S. §168B.07 or disposed of in accordance with M.S. §168B.08;
  - (5) That the property owner is responsible for any costs associated with the abatement, including any administrative fees; and
  - (6) That the owner of the vehicle or the owner of or person in control of the property on which the vehicle is located may make a request in writing for a hearing before the City Manager or the Manager's designated agent.
- b. Hearing, action. If a hearing is requested during the 10-day period, the City Manager or the Manager's designated agent must promptly schedule the hearing, and no further action on the towing and impoundment of the vehicle may be taken until the City Manager's decision is rendered. At the conclusion of the scheduled hearing, the City Manager or the Manager's designated agent may (1) cancel the notice to remove the vehicle; (2) modify the notice; or (3) affirm the notice to remove, specifying the date by which the vehicle must be removed. If the notice is modified or affirmed, the vehicle must be disposed of in accordance with the written order of the City Manager or the Manager's designated agent.
- c. Impounding procedures. The impounded vehicle will be surrendered to the owner by the towing contractor only upon payment of the required impound, towing and storage fees. Vehicle impounding will be conducted in accordance with M.S. Ch. 168B, governing the sale of abandoned motor vehicles.
- d. Assessment of administrative costs. The City costs of abatement shall be a lien against the real estate on which the nuisance existed and may be levied and collected as a special assessment in the manner provided by M.S. § 429.101. All the provisions of M.S. § 429.101 are incorporated by reference.

Section 19-1305. CONSTRUCTION AND APPLICATION. Nothing in Sections 19-1301 through 19-1307 shall be construed to permit any act prohibited by any other ordinance, statute, or rule of law.

Section 19-1306. SEPARABILITY. Should any section, subdivision, clause, or other provision of Sections 19-1301 through 19-1307 be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of Sections 19-1301 through 19-1307 as a whole nor of any part thereof other than the part so declared to be invalid.

Section 19-1307. PENALTY. Any person violating the provisions of Sections 19-1301 through 19-1307 upon conviction, shall be guilty of a misdemeanor.

## REQUIRING FENCING AROUND ALL OUTDOOR SWIMMING POOLS

Section 19-1401. SWIMMING POOL DEFINED. For purposes of this ordinance a swimming pool is defined as any structure, basin chamber, or tank containing an artificial body of water for swimming, diving, or recreational bathing and having a depth of more than 24 inches at any point and a surface area exceeding 150 square feet.

Section 19-1402. FENCING REQUIRED AROUND OUTDOOR SWIMMING POOLS. All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a security fence or wall at least four feet high and located at least four feet from the edge of the swimming pool on at least one-half of the perimeter. All fence openings or points of entry into the pool area shall be quipped with gates. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or in a manner otherwise inaccessible to small children. Any openings between the fence bottom and the ground or other surface shall not exceed four inches.

**EXCEPTION:** All above-ground outdoor swimming pools that have minimum four foot high, vertical or outward-inclined sidewalls; provided sole access is by means of removable ladder, ramp, or stairs which must be removed when pool is not attended.

Section 19-1403. PENALTY. Any person, firm, or corporation violating the provisions of this ordinance may, upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

## REGULATING THE USE OF SKATEBOARDS AND IN-LINE SKATES

Section 19-1501. SKATEBOARDING AND IN-LINE SKATING PROHIBITED. No person shall ride or propel skateboards, in-line skates, or roller skates on the “Posted” areas at the City Civic Center Complex, except in connection with an exhibition, commercial venture, organized plan, or similar organized event authorized by permit issued by the City Manager. The term “Posted” areas shall mean areas that are clearly designated by signage, prohibiting the use of skateboards, in-line skates, or roller skates.

Section 19-1502. PENALTY. Any person violating the provision of Section 19-1502 may, upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment of not to exceed ninety (90) days, or both, together with the costs of prosecution.

## NATIVE AND NATURALISTIC VEGETATION REGISTRATION AND REQUIREMENTS

Section 19-1551. INTENT. The City Council determines that a variety of properly maintained landscapes in the City add diversity and a richness to the quality of life. The City Council also supports the preservation, restoration, and maintenance of diverse and biologically

stable natural plant communities. The City Council also supports environmentally-sound practices, including those to preserve residential pollinators, such as the Rusty Patched Bumble Bee. The City Council finds that the establishment of native and naturalistic vegetation is an acceptable landscape treatment in the City. However, as a protection for the larger community, such native and naturalistic vegetation must be properly planted, maintained, and the length of transition period must be minimized such that the property does not create a public nuisance.

Section 19-1552. DEFINITIONS. For the purposes of Sections 19-1551 through 19-1555, the following terms shall have the meaning given them in this section.

- a. “Native and naturalistic vegetation” means all native grasses and native plants that are native to, or adapted to, the State of Minnesota, and that are commonly found in meadow or prairie plant communities, with the exception of noxious weeds.
- b. “Native grasses” mean grasses that existed in the State of Minnesota prior to European settlement including, but not limited to, beach grass, wood chess grass, sand reed grass, wheat grass, bluestem grass, grama grass, brome grass, buffalo grass, switch grass, Indian grass, and wild rye, with the exception of turf grasses.
- c. “Native plants” mean plants that existed in the State of Minnesota prior to European settlement.
- d. “Landscape edging” means material or vegetation used to differentiate a planting bed from turf grasses or adjacent planting beds.
- e. “Meadow” or “prairie” means those plant communities dominated by a diversity of native perennial herbaceous plants and grasses.
- f. “Noxious weeds” mean grasses or plants so designated by the Commissioner of the Department of Agriculture, pursuant to Minnesota Statutes, Section 18.77, Subdivision 8, or plants so designated by Hennepin County or the United States Department of Agriculture. The term includes any grass or plant that exceeds the height limitations established in these Sections 19-1551 through 19-1555. The term shall not include *Taraxacum officinale* (commonly referred to as the “common dandelion”).
- g. “Registered owner” means a property owner that has applied for and has been registered by the City to establish or maintain native and naturalistic vegetation on their property.
- h. “Regularly cut” means mowing or otherwise cutting grasses or plants such that the dimension of the grasses or plants measured from the ground to the top of the grass or plant (as extended upright) does not exceed 12 inches in height.
- i. “Transition period” means the amount of time to change from one type of landscaping to another.

- j. “Turf grasses” mean bluegrass, fescue, ryegrass blends, or those other grasses commonly used in regularly cut lawns, including such grasses with non-woody vegetation interspersed within.

Section 19-1553. REGISTRATION REQUIRED; APPLICATION; CONDITIONS.

- a. City Registration Required. No person shall establish or maintain native and naturalistic vegetation without having first registered with the City.
- b. Registration Process.
  - 1. Any person desiring to register to establish or maintain native and naturalistic vegetation on their property shall submit to the City a registration application on the form provided by the City Manager or designee.
  - 2. No application shall be considered complete unless it contains all the information required on the form.
  - 3. The City Manager or designee shall review applications to determine if they are complete and whether the proposed vegetation complies with the City Code.
  - 4. The City Manager, or designee, may deny a registration application if they determine the proposed vegetation does not comply with the City Code.
  - 5. An applicant aggrieved by the application decision may appeal the decision as described in this Section.
- c. Conditions of Registration. The registered owner shall comply with all of the following with respect the native and naturalistic vegetation on their property.
  - 1. Comply with the setback regulations as required by Section 19-1554.
  - 2. Comply with the maintenance regulations as required by Section 19-1555.
- d. Suspension or Revocation of Registration. The City Manager or their designee may suspend or revoke a registration if the registered owner fails to comply with the requirements of these 19-1551 through 19-1555. The City shall provide the registered owner written notice of the suspension or revocation that states the reasons for the decision. The notice shall also inform the registered owner of their right to appeal the decision to the City Council and the deadline for filing such an appeal.
- e. Appeal. An applicant or registered owner aggrieved by any registration denial, suspension, or revocation decision of the City Manager or designee may appeal the decision to the City Council. Written notice of the appeal must be given to the City Clerk within 10 days of the written decision, as indicated in the notice of decision, and must summarize the person’s reasons for appealing. The City Council shall consider the appeal at the next regularly scheduled City Council meeting on or after 10 days from the filing of the notice of appeal to the City Manager.

Section 19-1554. SETBACK REQUIREMENTS, EXEMPTIONS.

- a. Setback Regulations, Generally. Native and naturalistic vegetation shall be set back at least five feet from the side and rear lot lines, unless exempted by this Section.
- b. Exemptions to Setback Regulations. No setback shall be required on the side or rear lot lines if:
  1. A fully opaque fence at least five feet in height is installed between the native and naturalistic vegetation and the side and rear lot lines, as applicable; or
  2. The native and naturalistic vegetation abut native and naturalistic vegetation on an adjacent lot.

Section 19-1555. GENERAL MAINTENANCE REQUIREMENTS.

- a. Native and naturalistic vegetation shall be maintained in such a manner that it does not contain noxious weeds.
- b. Native and naturalistic vegetation shall be maintained at least once per year through mowing or, if appropriate permits are obtained from the City Fire Chief, through burning.
- c. The area in which native and naturalistic vegetation is planted shall be clearly defined by landscape edging or fencing. Native and naturalistic vegetation that directly abuts at least five feet width of mowed and maintained turf grass shall be considered to have adequate landscape edging.
- d. The area in which native and naturalistic vegetation is planted shall not extend into public rights-of-way.
- e. For any area in which native and naturalistic vegetation is likely to be seen by the public, a sign shall be posted on the property in a location likely to be seen by the public advising that native and naturalistic vegetation, a meadow, or prairie is being established. The sign shall be in addition to any sign permitted by the sign ordinance, but shall be no smaller than 10 inches square, no larger than one square foot, and no higher than 3 feet tall.
- f. The maintenance of the area to a height of 8 inches or less if weeds cover more than 25% of the landscaped area equaling in excess of 144 square feet.
- g. Any native and naturalistic vegetation within 18 inches of any public street, walk, bikeway or alley shall be maintained to a height of 12 inches or less.

- h. The duration of any transition period to native and naturalistic vegetation shall not extend more than three growing seasons for any specific area.
- i. Except to the extent expressly allowed by these Sections 19-1551 through 19-1555, registered owners shall maintain native and naturalistic vegetation in accordance with all other requirements of the City Code.

### PROVIDING FOR THE CONTROL OF NOXIOUS WEEDS

Section 19-1601. CONTROL OF NOXIOUS WEEDS. It shall be the duty of every occupant of land or, if the land is unoccupied, the owner thereof, or his agent, or the public official in charge thereof, to cut down, otherwise destroy, or eradicate all noxious weeds as hereinafter defined, standing, being, or growing upon such land, except for areas within natural preserves, in such manner and at such times as may be directed or ordered by the Brooklyn Center Weed Inspector.

Natural preserves shall be publicly owned lands designated as park or open space or private properties approved by the City.

Section 19-1602. ADOPTION OF STATUTES BY REFERENCE. The regulatory provisions of Minnesota Statutes Sections 18.76 to 18.88 *Minnesota Noxious Weed Law* are hereby adopted for the control of noxious weeds within the City of Brooklyn Center. Said State regulations are incorporated in and made a part of this ordinance as completely as if set out here in full.

### Section 19-1603. NOXIOUS WEEDS DEFINED.

- a. For purposes of this ordinance, "noxious weeds" means any plant which is identified by the Minnesota Commissioner of Agriculture as a noxious weed or secondary noxious weed pursuant to Minnesota Statutes Section 18.77, Subdivision 8.
- b. Any weeds or grass growing to a height greater than eight (8) inches or which have gone or about to go to seed.

Section 19-1604. PENALTIES. Any person, firm or corporation violating provisions of this ordinance by failing, neglecting, or refusing to comply with the provisions thereof, shall, upon conviction thereof, be punished by a fine not to exceed one thousand dollars (\$1,000) or imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution.

### PROHIBITING PROSTITUTION, NUDITY AND OTHER ACTS WITHIN THE CITY OF BROOKLYN CENTER

Section 19-1700. DEFINITIONS. The following terms will have the following definitions for the purposes of this ordinance.



- a. Public Place - the term "public place" means any place or premises accessible to the general public including but not limited to streets, alleys, sidewalks, driveways and parks and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or as to which the general public is invited, commercially, for a fee or otherwise or in or on which the general public is permitted, including any club or association of members which accepts members from the general public and shall also include private property wherein the conduct complained of is openly and easily visible by members of the general public from positions not on said private property.
- b. Person - the term "person" shall include individuals, firms, partnerships, corporations, joint ventures, clubs, associations, and organizations and shall further include the officers, agents, partners, directors and employees thereof.
- c. Nudity - the term "nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering or the showing of a post-pubertal female breast with less than a fully opaque covering of any portion thereof below the top of the nipple thereof or the showing of covered male genitals in a discernibly turgid state.
- d. Sadomasochistic abuse - the term "sadomasochistic abuse" means scenes, exhibitions, enactments, re-enactments, displays or acts involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint or physical abuse of any such person.
- e. Sexual Conduct - the term "sexual conduct" means any acts by oneself or another or simulation of acts of masturbation, homosexual intercourse, heterosexual intercourse, fellation, cunnilingus, anal intercourse, or the physical contact with a person's unclothed genitals, pubic area, buttocks of if said person is a female, her breasts.
- f. Sexual Excitement - the term "sexual excitement" means the condition of the human male or female genitals or the breasts of the female in a state of sexual stimulation or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.

Section 19-1701. PROSTITUTION AND OTHER ACTS PROHIBITED. No person in any public or private place shall hold out for hire, offer or agree to submit his or her body for hire for the purpose of heterosexual intercourse, homosexual intercourse, cunnilingus, fellatio, anal intercourse, manual genital stimulation or for the purpose of engaging in any similar act using any device, contrivance or other part of the body.

Section 19-1702. FURTHER ACTS PROHIBITED. No person in any public or private place shall secure or offer to secure, entice or attempt to entice or invite another to engage in prostitution as described in this section and no person shall aid or abet the commission of such acts or prostitution or knowingly accept any part of the earnings of a prostitute or earnings from prostitution nor shall any person knowingly facilitate or promote prostitution as defined in this ordinance by any means including but not limited to means of telephone communication or by use of a telephone answering service or the like.

Section 19-1703. PROHIBITION OF NUILITY IN PUBLIC PLACES. It shall be unlawful for the lessee, licensee, owner or manager of any public place to permit, allow, suffer or fail to prevent in such place, nudity, sadomasochistic abuse, sexual conduct or sexual excitement as defined in this section or for any persons to so participate or engage in any nudity, sadomasochistic abuse, sexual conduct or sexual excitement in any such public place.

Section 19-1704. SEPARABILITY. If any section, subsection, paragraph or provision of this ordinance shall be held invalid for any reason whatsoever, such invalidity shall not affect the remaining portion of this ordinance which shall remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 19-1705. PENALTIES. Any person found guilty by lawful authority of violating any provisions of this ordinance shall be punished by a fine of not more than \$1,000 or imprisonment for not longer than ninety (90) days or both, together with the costs of prosecution.

Section 19-1706. LIABILITY FOR THE CRIMES OF ANOTHER. Every person who commits or attempts to commit, conspires to commit or aids and abets in the commission of any act constituting a violation of this ordinance or any act, which constitutes an omission and, therefore, a violation of this ordinance, whether individually or in connection with one or more persons or as principal, agent or accessory, shall be guilty of such offense and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any of the provisions of this chapter is likewise guilty of such offense.

PROHIBITING AND REGULATING THE DISSEMINATION OF PORNOGRAPHY AND  
RELATED MATERIALS WITHIN THE CITY OF BROOKLYN CENTER

Section 19-1800. STATEMENT OF PURPOSE. The City Council of the City of Brooklyn Center seeks to discharge its duties and responsibilities to the community by stemming the tide of obscene, lewd, lascivious, tawdry and indecent books, pictures, films, exhibitions, materials and the like and to thereby preserve the quality of life and environment in the community; to safeguard the dignity of its citizens and protect and defend their morals, character and privacy and that of their children from indecent intrusions; and to preserve and improve the quality of local commerce and the standards of life in the City.

The City Council adopts the findings of the United States Supreme Court that:  
The sum of experience, including that of the past two decades, affords an ample basis for legislatures to conclude that a sensitive key relationship of human existence, central to

family life, community welfare and the development of human personality, can be debased and distorted by crass, commercial exploitation of sex.

The City Council finds that pornography produces an irretrievable erosion in human values, decency and spirit especially affecting young adults and children and further recognizes the unsettling hypothesis that there is an arguable correlation between the unrestricted use of pornography and incidence of criminal acts.

In light of these findings and with deep and grave concern for the future well-being of the community, the City Council hereby prohibits the use, sale, transfer, barter, trade, exhibition and production of pornography.

Section 19-1801. DEFINITIONS. The following terms will have the following definitions for the purpose of this ordinance.

- a. "Obscene" is the descriptive adjective used to modify or qualify any material or performance which is an obscene work.
- b. "Obscene Work" or "Obscene Material" means any work including but not limited to books, movies, pictures, magazines, exhibitions, productions, recordings and the like which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way; and which, taken as a whole, lack serious literary, artistic, political or scientific value. In determining whether or not a work is an obscene work or obscene material, the trier of fact must find:
  1. That the average person, applying contemporary community standards would find that the work or material, taken as a whole, appeals to the prurient interest in sex; and
  2. That the work or material depicts or describes in a patently offensive way, sexual conduct specifically defined herein or authoritatively construed by the Courts of this State as being a portrayal of patently offensive sexual conduct, as that phrase is used in definition of an obscene work or obscene material; and
  3. That the work, taken as a whole, lacks serious literary, artistic, political or scientific value.
- c. "Material" means any tangible property including, but not limited to, books, printed material, magazines, movies, pictures, plays, exhibitions and productions which are capable of being used or adapted to arouse interest, or to affect the human senses, whether through the median of reading, observation, sound or in any other manner.

- d. "Performance" means any play, motion picture, dance or other exhibition performed before an audience.
- e. "Prurient Interest" means having, exhibiting or lending itself to a shameful, morbid or lascivious interest in or thoughts about or desires as to nudity, sex, or the bodily functions of human beings.
- f. "Community Standards" means the contemporary community standards of that community from which the trier of fact is from including his community or the vicinage from which he comes.
- g. "Patently Offensive" means so offensive on its face as to affront current standards of decency.
- h. "Patently Offensive Sexual Conduct" shall be deemed to include any of the following described sexual conduct if depicted or described in a patently offensive way:
  - 1. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-to-genital contact, anal-to-genital contact, or oral-to-genital intercourse, whether between human beings or between a human being and an animal.
  - 2. Sadomasochistic abuse which is defined as any scene, exhibition, act, enactment, re-enactment or display involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint or physical abuse of any person.
  - 3. Masturbation, excretory functions and lewd exhibitions of the human genitals, including any explicit, close up representation of a human genital organ or a fully exposed view focusing upon the open and uncovered human male or female sexual organ.
  - 4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human person or the breasts of a human female whether alone or between members of the same or opposite sex or between humans and animals in an act of actual or simulated sexual stimulation or gratification.
  - 5. Any device designed or marketed as useful primarily for the stimulation of human genital organs.
  - 6. Male or female genitals in a state of sexual stimulation or arousal.
  - 7. Covered male genitals in a discernibly turgid state.

- i. "Person" shall include individuals, firms, partnerships, corporations, joint ventures, clubs, associations, and organizations and shall further include the officers, agents, partners, directors and employees thereof.
- j. "Minor" means any natural person under the age of 18 years.
- k. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering or the showing of the female breasts with less than a fully opaque covering of any portion thereof below a point immediately above the areola or the depiction of covered male genitals in a discernibly turgid state.

Section 19-1802. DISTRIBUTION AND EXHIBITION OF PORNOGRAPHY. It shall be unlawful for any person to sell, give away, barter, trade, deal in, produce, perform, show, exhibit or possess with an intent to sell, give away, barter, trade, deal in, show or exhibit any obscene work or material including but not limited to works or materials such as obscene books, magazines, pictures, movies, printed material, recordings, closed circuit television productions or exhibitions and the like.

Section 19-1803. DISTRIBUTION AND EXHIBITION OF PORNOGRAPHY TO MINORS. It shall be unlawful for any person to sell, give away, barter, trade, deal in, produce, perform, show, exhibit or possess with intent to sell, give away, barter, trade, deal in, show or exhibit to any minor any work or material including, but not limited to, books, magazines, pictures, movies, printed material, recordings, closed circuit television productions or exhibitions and the like which depict or show nudity as defined in this ordinance or any obscene work or material including, but not limited to, obscene books, magazines, pictures, movies, printed material, recordings, performances, closed circuit television productions and the like.

Section 19-1804. UNLAWFUL PUBLIC DISPLAY. It shall be unlawful for any person to display to public view at newsstands, stores, business establishments and in any public place where minors are or may be invited, allowed or suffered or any private place where said display in openly and easily visible to members of the general public, any device, contrivance, movie, picture, book, magazine, recording, advertisement or the like the cover or external covering of which exploits, is devoted to, shows, exhibits, describes, or depicts any nudity, sexual conduct, lewdness, indecency, sadomasochistic abuse, illicit sex, lust or perversion.

Section 19-1805. PENALTY. Any person found guilty by a lawful authority of violating any provision of this chapter of the ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 and by imprisonment for not longer than 90 days or both, together with the costs of prosecution.

Section 19-1806. LIABILITY FOR THE CRIMES OF ANOTHER. Every person who commits or attempts to commit, conspires to commit or aids and abets in the commission of any act constituting a violation of this ordinance or any act, which constitutes an omission and, therefore, a violation of this ordinance, whether individually or in connection with one or more persons or as principal, agent, or accessory, shall be guilty of such offense and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any of the provisions of this chapter is likewise guilty of such offense.

Section 19-1807. PUBLIC NUISANCE. The sale, distribution, trading in, dealing in, giving, showing, exhibition, performance or production of any obscene work or material is hereby declared to be a nuisance. Whenever the City Council determines that a nuisance is being kept, maintained, produced, permitted, conducted, allowed or exists, it may order the termination or abatement of that nuisance by the person or persons keeping, conducting, maintaining, producing, permitting or allowing that nuisance.

Section 19-1808. ORDER. The order of the City Council shall be in writing, shall recite the allegations constituting the nuisance, provide a specified time for compliance and state that civil enforcement of the order shall be undertaken if no compliance occurs.

The order shall be served in the manner of a summons and complaint in a civil action.

Section 19-1809. ENFORCEMENT. If no abatement or termination of the nuisance occurs within the time prescribed in the council order, the City shall forthwith seek enforcement of its order in any appropriate civil proceeding.

Section 19-1810. RECOVERY OF EXPENDITURES. The City shall keep an accurate account of expenses incurred in carrying out its order and abating the nuisance, including all expenses incurred in connection therewith, including but not limited to filing fees, service fees, publication fees, attorneys' fees, appraisal fees, witnesses' fees, traveling expenses, administrative time of City staff employees and the like. The Court shall examine said expenses, correct them if necessary and allow the City's expense account.

The person or persons charged with keeping, containing, producing, permitting, allowing or conducting said nuisance shall pay said expenses but if in default of payment by October 1, the city clerk shall certify the amount to the county auditor for entry on the tax lists of the County as a special charge against the real estate used in connection with said nuisance or upon which or within which said nuisance was kept, maintained, produced, permitted, conducted or allowed and said sum shall be collected in a manner as other taxes and paid over to the municipal treasury.

Section 19-1811. SEVERABILITY. Every section, provision or part of this ordinance is declared separable from every other section, provision or part to the extent that if any section, provision or part of the ordinance shall be held invalid, such holding shall not invalidate any other section, provision or part thereof.

Section 19-1900: ADULT CABARETS.

- a. Definition. An adult cabaret is a business that provides dancing or other live entertainment distinguished or characterized by an emphasis on the presentation, display or depiction of Specified Sexual Activities or Specified Anatomical Areas as defined in Section 35-2182, or the presentation, display or depiction of matter that seeks to evoke, arouse or excite sexual or erotic feelings or desires.
- b. Any adult cabaret operating in the city must comply with the following conditions:
  1. An owner, operator, or manager of an adult cabaret may not allow any dancer or other live entertainer to display Specified Anatomical Areas or to display or perform Specified Sexual Activities on the premises of the Adult Cabaret;
  2. A dancer, live entertainer, performer, patron, or any other person may not display Specified Anatomical Areas in an Adult Cabaret;
  3. The owner, operator, or manager of an adult cabaret must provide the following information to the City concerning any person who dances or performs live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth, and any aliases;
  4. A dancer, live entertainer, or performer may not be under 18 years old;
  5. Dancing or live entertainment must occur on a platform intended for that purpose and that is raised at least two feet from the level of the floor;
  6. A dancer or performer may not perform a dance or live entertainment closer than ten feet from any patron;
  7. A dancer or performer may not fondle or caress any patron and no patron may fondle or caress any dancer or performer;
  8. A patron may not pay or give any gratuity to any dancer or performer; and
  9. A dancer or performer may not solicit or accept any pay or gratuity from any patron.

Section 19-2000. TRAIN WHISTLES.

Section 19-2001. FINDING AND PURPOSE. The Council finds that the sounding of railroad locomotive horns at grade crossings has increased in recent years. The increased use of railroad locomotive horns at grade crossings in and around residential neighborhoods has detracted from the quiet enjoyment of property and from the peace and dignity of the City. The City also is concerned about the safety of the public at railroad crossings if the negative impact of the use of train whistle and horns is mitigated by the creation of a “quiet zone.” In order to protect the safety, welfare, and convenience of the public, the Council finds it necessary to establish regulations pertaining to railroad locomotive horns, bells, or whistles. The City establishes this ordinance and intends that the ordinance be consistent with the applicable rules of the Federal Railroad Administration (FRA) found in 49 Code of Federal Regulations (CFR) Parts 222 and 229 as they may be hereafter amended, relating to the establishment of quiet zones.

Section 19-2002. The City, having met the requirements of 49 CFR Part 222, has established the Azelia Avenue quiet zone (the “Quiet Zone”) along the rail line crossing Azelia Avenue from milepost 5.49 to milepost 6.00. No railroad locomotive horn, bell, or whistle shall be sounded in or along the Quiet Zone at any time, except to provide a warning to prevent imminent injury, death, or property damage in accordance with 49 CFR §222.23, as such rule may be amended from time to time, or as otherwise permitted by the applicable FRA regulations. The sounding of any railroad locomotive horn, bell, or whistle shall be prima facie evidence that it was sounded or blown with the permission of the railroad company.

Section 19-2003. PENALTY. Violation of the provisions of this Section is a misdemeanor.

## GRAFFITI

Section 19-3000. FINDINGS AND PURPOSE. The City Council of the City of Brooklyn Center is enacting Sections 19-3000 through 19-3006 to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

The City Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Graffiti perpetrators are often associated with other criminal activities, including violent crimes. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The City Council intends, through the adoption of Sections 19-3000 through 19-3006 to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement of public and private property. The City Council does not intend for these sections to conflict with any existing anti-graffiti state laws or “criminal damage to property” laws.

Section 19-3001. DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of Sections 19-3000 through 19-3006.

1. Aerosol Paint Container – means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.
2. Broad-Tipped Marker – means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.
3. City Manager – the City Manager of the City of Brooklyn Center or the Manager’s authorized designee.
4. Etching Equipment – means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.
5. Graffiti – means any unauthorized inscription, word, figure, painting, symbol, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, that was not authorized in advance by the owner or occupant of the property, or, despite advance authorizations, otherwise is deemed a public nuisance by the City Council.

6. Graffiti Implement – means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.
7. Paint Stick or Graffiti Stick – means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-fourth of an inch in width.
8. Owner – those shown to be the owner or owners on the records of the Hennepin County Department of Property Taxation; those identified as the owner or owners on a vacant building registration form, a holder of an unrecorded contract for deed, a mortgagee or vendee in possession, a mortgagor or vendor in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee, other person, firm or corporation in control of the freehold of the premises or lesser estate therein. An owner also means any person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in the property or building. This includes any partner, officer, or director of any partnership, corporation, association or other legally-constituted business entity. All owners shall have joint and several obligations for compliance with the provisions of Sections 19-3000 through 19-3006 of this Code.
9. Responsible Party - means an owner, occupant, entity or person acting as an agent for the owner who has direct or indirect control or authority over the building or real property upon which the building is located, and any party having a legal or equitable interest in the property. Responsible party may include, but is not limited to, a realtor, service provider, mortgagor, leasing agent, management company or similar person or entity.

Section 19-3002. PROHIBITED ACTS.

1. Defacement. It is unlawful for any person to apply graffiti to any natural or man-made surface on any publicly or privately-owned property.
2. Possession of graffiti implements. Unless otherwise authorized by the owner or occupant, it is unlawful for any person to possess any graffiti implement while:
  - a. within 200 feet of any graffiti located in or on a public facility, park, playground, swimming pool, recreational facility, bridge, or other public building or structure owned or operated by a governmental agency; or
  - b. within 200 feet of any graffiti located in any public place or on private property, between the hours of 10:00 p.m. and 5:00 a.m.

Section 19-3003. GRAFFITI AS NUISANCE.

1. Declaration. The existence of graffiti on public or private property is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in Sections 19-3004 and 19-3005.
2. Duty of property owner. It is the duty of both the owner of the property to which the graffiti has been applied and any responsible party to at all times keep the property clear of graffiti.
3. Repeat violations. If a property is subject to three or more occurrences of graffiti within a year, application of anti-graffiti material of a type and nature that is acceptable to the City may be required for each of the publicly viewable surfaces after notification by the City, or imposed during improvements or construction activities to the site as determined by the City.

Section 19-3004. REMOVAL OF GRAFFITI.

1. By perpetrator. The City may require any person applying graffiti on public or private property to either remove or pay for all costs for removal of the graffiti within 24 hours after notice by the City or property owner. The removal must be performed in a manner prescribed by the City, with materials and colors compatible with existing surfaces, and to a condition that is comparable to or improved upon the condition that existed before the graffiti application, as determined by the City. Where graffiti is applied by a person under 18 years old, the parents or legal guardian will also be responsible for such removal or for payment for the costs of removal. Failure of any person to remove graffiti or pay for the removal will constitute an additional violation of Sections 19-3000 through 19-3006.
2. By property owner or City. In lieu of the procedure set forth in paragraph 1, the City may order that the graffiti be removed by the property owner or responsible party. Graffiti removal and corrections must be performed with materials and colors compatible with existing surfaces as determined by the City. If the property owner or responsible party fails to remove offending graffiti within the time specified by the City, the City may commence abatement and cost recovery proceedings for the graffiti removal in accordance with Section 19-3005.

Section 19-3005. ABATEMENT PROCEDURE.

1. Abatement by City. If the owner or responsible party does not comply with the notice within the time specified, the City may abate the public nuisance.

2. Notice and Hearing. The following notification must be conducted prior to City abatement of the public nuisance. Whenever it is determined that a public nuisance is being maintained or exists on a property, the City Manager must give seven (7) days' written notice through service by mail, by posting a notice on the property, or by personal delivery to the owner or responsible party of the property on which the public nuisance is located. When the property is occupied, service upon the occupant is deemed service upon the owner. Where the property is unoccupied or abandoned, service may be by mail to the last known owner of record of the property or by posting on the property. The notice must state:
  - a. A description of the public nuisance;
  - b. That the public nuisance must be corrected within 7 days of the service of the notice;
  - c. That if the public nuisance is not properly removed or corrected as ordered, the public nuisance will be abated by the City and the costs of abatement will be specially assessed to the property taxes;
  - d. That the owner or responsible party of the property on which the public nuisance is located may in writing request a hearing before the City Manager.
3. Hearing, Action. If a hearing is requested during the 7-day period, the City Manager must promptly schedule the hearing, and no further action on the abatement of the public nuisance may be taken until the City Manager's decision is rendered. At the conclusion of the scheduled hearing, the City Manager may i) cancel the notice to remove or correct the public nuisance, ii) modify the notice, or iii) affirm the notice to remove or correct the public nuisance. If the notice is modified or affirmed, the public nuisance must be disposed of in accordance with the City's written order.
4. Summary abatement. The enforcing officer may provide for abating a public nuisance without following the procedure required in paragraph 2 when:
  - a. there is an immediate threat to the public health or safety;
  - b. there is an immediate threat of serious property damage;
  - c. a public nuisance has been caused by private parties on public property; or
  - d. any other condition exists that violates state or local law and that is a public health or safety hazard.

A reasonable attempt must be made to notify the owner, occupant, or other responsible party of the intended action and the right to appeal the abatement and cost recovery at the next regularly-scheduled City Council meeting.

5. Cost recovery. The owner of property on which a nuisance has been abated by the City, or a person who has caused a public nuisance on property not owned by that person, is personally liable to the City for the cost of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City will prepare a bill for the cost and mail it to the owner or other responsible party. The amount is immediately due and payable to the City.
6. Assessment. If the cost, or any portion of it, has not been paid within 30 days after the date of the bill, the City Council may certify the unpaid cost against the property to which the cost is attributable in accordance with the process set forth in Section 19-105 of this Code.

#### Section 19-3006. PENALTIES.

1. Any violation of Sections 19-3000 through 19-3006 is a misdemeanor, punishable in accordance with state law. The City is not, however, precluded from seeking other remedies or civil penalties available under this code or state law. A private property owner may also seek additional penalties or remedies.

### PROHIBITING USE OF CANNABIS AND HEMP PRODUCTS IN PUBLIC PLACES

Section 19-4000. DEFINITIONS. For purposes of this section, the following definitions shall apply in the interpretation and enforcement of Sections 19-4000 through 19-4002.

1. “Cannabis flower,” “cannabis products,” “lower-potency hemp edibles,” and “hemp-derived consumer products” shall have the definitions given to them in Minnesota Statutes, section 342.01, as it may be amended from time to time.
2. “Public place” is defined as any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests. Pursuant to Minnesota Statutes, section 152.0263, subd. 5, “public place” does not include the following: (i) a private residence, including the person's curtilage or yard; (ii) private property not generally accessible by the public; and (iii) the premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

Section 19-4001. USE OF CANNABIS AND HEMP PROHIBITED IN PUBLIC PLACES. No person shall use cannabis flower, cannabis products, lower-potency hemp edibles,

or hemp-derived consumer products in a public place.

Section 19-4002. PENALTIES. A violation of this section shall be considered a petty misdemeanor notwithstanding any other penalty provision in the city code, and, upon conviction, the violator shall be punished by a fine not to exceed \$200.