

Chapter 8

PUBLIC PROTECTION, CRIMES AND OFFENSES

THE CITY COUNCIL OF BOVEY, MINNESOTA ORDAINS:

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Section 8.01. STORAGE, DEPOSIT AND DISPOSAL OF REFUSE.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. "Refuse" – Includes all organic material resulting from the manufacture, preparation or serving of food or food products, and spoiled, decayed or waste foods from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags, and discarded clothing, tree or lawn clippings, leaves weeds and other waste products, except human waste or waste resulting from building construction or demolition.
- B. "Residential Dwelling" – Any single building consisting of one through four dwelling units with individual kitchen facilities for each.
- C. "Multiple Dwelling" – Any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities for each.
- D. "Commercial Establishment" – Any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools where food is prepared or served.

Subd. 2. Storage.

- A. It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage should be in metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition; provided, that tree leaves, weeds and grass clippings may be stored in biodegradable paper bags and tree limbs must be stored in bundles weighing no more than seventy-five pounds and no longer than four feet.
- B. It is unlawful for any person to store refuse on multiple dwelling or commercial establishment premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.
- C. It is unlawful to store organic refuse unless it is drained and wrapped.

Subd. 3. Deposit. It is unlawful for any person to deposit refuse from any source, rubbish, offal, or the body of a dead animal, in any place other than a sanitary landfill.

Subd. 4. Fire Danger. It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point where it could cause danger of fire in other refuse.

Subd. 5. Containers. All refuse/recycling containers shall be stored on its own lot. All containers, except when put out on collection day, must be stored out of view of all streets and avenues. All containers placed out for collection must be placed behind the curb, not on the street. Containers may be placed curbside the night before collection. Containers must be moved back to the storage area before 10:00 p.m., the day of collection. Landlords must provide garbage service for all rental units from the provider contracted with the city for refuse collection. All containers shall be maintained in a clean and sanitary condition so as not to attract insects or rodents.

Section 8.02. TOILET INSTALLATION REQUIRED.

It is the duty of every owner or occupant of any property within the City, having a dwelling house or business building situated thereon, which property is abutting a street in which there are City water and sewer mains, to install a toilet in such dwelling or business building and make connection thereof with such water and sewer mains. The City shall serve written notice upon said owner or occupant requiring the installation of toilet facilities upon premises described in said notice, and connection thereof with the sewer and water mains, all of which shall be done within thirty days after service of such written notice. Whenever any owner or occupant shall default in compliance with such written notice the Council may by resolution direct that a toilet be installed, and connection made with the water and sewer mains and that the actual costs of such installation be paid in the first instance out of the General Revenue Fund and assessed against the property so benefitted. After such installation and connection is completed by order

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of the Council, the City shall serve a written notice of intention to make an assessment thereof. If such assessment is not paid within ten days the City shall certify the amount thereof to the County Auditor in the same manner as with other special assessment, provided that the Council may by resolution provide that the assessment be spread over a term of five (5) years upon written request by the owner of the property.

Section 8.03. DANGEROUS WEAPONS AND ARTICLES.

Subd. 1. Acts Prohibited. It is unlawful for any person to:

- A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,
- B. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,
- C. Manufacture or sell for any lawful purpose any weapon known as a slung-shot or sand club; or,
- D. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,
- E. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,
- F. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm, without an ATF stamp in their name; or,
- G. Permit, as a parent or guardian, any child under fourteen years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or
- H. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the consent of his parent or guardian or of the Police Department; or
- I. Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star or nun chuck. For the purposes of this Subparagraph, (1) a "throwing star" means a circular metallic device with any number of points projecting from the edge, and (2) a "nun chuck" means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod.

Subd. 2. Exception. Nothing in Subdivision 1 of this Section shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

Subd. 3. Discharge of Firearms and Explosives. It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, firecracker, skyrocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a B-B gun.

Subd. 4. Exception. Nothing in Subdivision 3 of this Section shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his duty, or to a person in the lawful defense of his person or family. This Section shall not apply to the discharge of firearms within a range authorized in writing by the Council.

Subd. 5. Possession and Sale of Fireworks. It is unlawful for any person to sell, possess or have in possession for the purpose of sale, except as allowed in Subdivision 4 of this Section, any firecrackers, skyrockets, or other fireworks.

Subd. 6. Exposure of Unused Container. It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges, or latches.

Subd. 7. Use of Bow and Arrow. It is unlawful for any person to shoot a bow and arrow except in the Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

Section 8.04. ANIMAL LICENSING AND REGULATION.

Subd. 1. Definition. For the purpose of this Section:

- A. "Owner" means a person who owns an animal hereby regulated.
- B. "Own" means to have a property interest in, or to, harbor, feed, board, keep, or possess.
- C. "Dangerous Animal" means an animal which has caused damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons.
- D. "Animal" means a dog or cat.

Subd. 2. Running at Large Prohibited. It is unlawful for the owner of any animal to permit such animal to run at large. Any dog or cat shall be deemed running at large with the permission of the owner unless it is on a durable leash secured to an object which it cannot move and on the premises of the owner, or on a leash and under the control of an accompanying person of suitable age and discretion, or effectively confined within a motor vehicle, building or enclosure.

Subd. 3. License Required and Number of Dogs and Cats Restricted. It is unlawful for any owner of a dog or cat over three months of age, to fail to obtain a proper City license therefor. The number of animals permitted shall not exceed three (3) per dwelling unit, or four (4) per multi-dwelling structure, whichever is the lesser, no more than two (2) of which shall be cats or dogs. Animals which are licensed as of January 1, 1994, shall not be subject to the limitation on number of animals per dwelling. Ten years from the date of adoption of this Ordinance, the provision excluding animals which are licensed as of January 1, 1994, from the limitation on number of animals per dwelling shall sunset.

Subd. 4. License Issuance, Term and Renewal. All animal licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the State of Minnesota, showing rabies immunization of the animal for at least the term of the license. The license shall be good for the life of the animal.

Subd. 5. Adoption of Fees. All fees for licensing, impounding and maintenance of animals, including penalties for late application, may be fixed, and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.

Subd. 6. Tag Required. All licensed animals shall wear a collar and have a tag firmly attached thereto evidencing a current license. A duplicate for a lost tag may be issued by the City upon presentation of the receipt showing the payment of the duplicate license fee. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the City or death of the animal before the expiration of the license.

Subd. 7. Animal Pound. Any animal found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in the Animal Pound, and an accurate record of the time of such placement shall be kept on each animal. Every animal so placed in the Animal Pound shall be held for redemption by the owner for at least five regular business days. A "regular business day" is one during which the Pound is open for business to the public for at least four hours between 8:00 o'clock A.M. and 7:00 o'clock P.M. Impoundment records shall be preserved for at least six months and shall show (1) the description of the animal by specie, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the animal was seized; (3) the date of seizure; (4) the name and address of the person from whom any animal three months of age or over was received; and (5) the name and address of the person to whom any animal three months of age or over was transferred. If unclaimed, such animal shall be humanely destroyed and the carcass

disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the five-day period.

Subd. 8. Notice of Impounding. Upon the impounding of any animal, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five (5) days at the City Hall describing the animal and the place and time of taking.

Subd. 9. Release From Animal Pound. Animals shall be released to their owners, as follows:

- A. If such animal is owned by a resident of the city, after purchase of a license, if unlicensed, and payment of the impounding fee, maintenance, and immunization fee.
- B. If such animal is owned by a person not a resident of the city, after immunization of any such animal for rabies, and payment of the impounding fee and maintenance.

Subd. 10. Seizure by a Citizen. It is lawful for any person to seize and impound an animal so found running at large and shall within six hours thereafter notify the Poundmaster of said seizure. It shall be the duty of the Poundmaster to place said animal in the City Pound. If the name of the owner of such animal so seized is known to the person who first takes such animal into custody, he or she shall inform the Poundmaster of the name of the owner, and the address if known.

Subd. 11. Immobilization of Animals. For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.

Subd. 12. Other Unlawful Acts. It is unlawful for the owner of any animal to (1) fail to have the license tag issued by the City firmly attached to a collar worn at all times by the licensed animal; or (2) own a dangerous animal, or (3) interfere with any police officer, or other City employee, in the performance of his duty to enforce this Section, or (4) fail to keep his dog from barking, howling or whining.

Subd. 13. Summary Destruction. If an animal is diseased, vicious, dangerous, rabid, or exposed to rabies and such animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, such animal may be destroyed in a humane manner.

Subd. 14. Rabies Control – Generally.

- A. Every animal which bites a person shall be promptly reported to the Chief of Police or Poundmaster and shall thereupon be securely quarantined at the direction of the Chief of Police or Poundmaster for a period of fourteen (14) days and shall not be released from such quarantine except by written permission of the City. In the discretion of the Chief of Police, such quarantine may be on the premises of the owner or at the veterinary hospital of his choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the case of a stray animal or in the case of animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion of the Chief of Police the animal be confined in a veterinary hospital designated by him.
- B. The owners, upon demand made by the Poundmaster or any other City employee empowered by the Council to enforce this Section, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.
- C. When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.

- D. The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.

Subd. 15. Reports of Bite Cases. It is the duty of every physician, or other practitioner, to report to the Chief of Police the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

Subd. 16. Responsibility of Veterinarians. It is the duty of every licensed veterinarian to report to the Chief of Police his diagnosis of an animal observed by him as a rabies suspect.

Subd. 17. Police Dogs, Seeing-Eye Dogs. The provisions of this Section shall not apply to the ownership or use of seeing-eye dogs by blind persons, or dogs used in police activities of the City, such as canine corps or tracking dogs used by or with the permission of the Police Department.

Subd. 18. Animals in Heat. Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female animal cannot come in contact with other animals.

Section 8.05. ANIMALS AND FOWL—KEEPING, TRANSPORTING, TREATMENT, HOUSING.

Subd. 1. Definitions. As used in this Section, the following definitions shall apply.

- A. "Farm Animals" – Cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens and honeybees.
- B. "Animals" – Includes farm animals and all other animals, reptiles and feathered birds or fowl except dogs, cats, or other household pets provided they are not kept, bred, or maintained for any commercial purpose.

Subd. 2. Keeping. It is unlawful for any person to keep or harbor any animal, not in transit, except (1) farm animals kept in that portion of the City zoned for agricultural purposes, or (2) animals kept in a laboratory for scientific or experimental purposes, or (3) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

Subd. 3. Animals in Transit. It is unlawful for any person to transport animals unless they are (1) confined within a vehicle, cage or other means of conveyance, or (2) farm animals being transported in a portion of the City zoned for agricultural purposes, or (3) restrained by means of bridles, halters, ropes or other means of individual restraint.

Subd. 4. Treatment. It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner.

Subd. 5. Housing. It is unlawful for any person to keep any animal as herein defined, or any other animal, in any structure infested by rodents, vermin, flies or insects, or inadequate for protection against the elements.

Subd. 6. Trespasses. It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, city park, cemetery, garden, or lot without specific permission therefor from the owner.

(Section 8.06 through 8.09, inclusive, reserved for future expansion.)

Section 8.10. SHADE TREE DISEASE CONTROL AND PREVENTION.

Subd. 1. Policy and Purpose. The City has determined that the health of oak and elm trees is threatened by fatal diseases known as oak wilt and Dutch elm disease. It has further determined that the loss of oak and elm trees located on public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare, and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of these

diseases and provide for the removal of dead or diseased trees, as nuisances.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. "Shade Tree Disease" – Dutch elm disease or oak wilt disease.
- B. "Tree Inspector" – The Street Commissioner, or such other employee of the City as the Council may designate and who shall thereafter qualify, together with his duly designated assistants.
- C. "Nuisance" – (1) any living or standing tree infected to any degree with a shade tree disease; or (2) any logs, branches, stumps, or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the Tree Inspector.

Subd. 3. Scope and Adoption by Reference. Minnesota Statutes, Section 18.023, is hereby adopted by reference, together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases; provided, that this Section shall supersede such Statutes, Rules, and Regulations, only to the extent of inconsistencies.

Subd. 4. Unlawful Act. It is unlawful for any person to keep, maintain or permit upon premises owned by him or upon public property where he has the duty of tree maintenance, any nuisance as herein defined.

Subd. 5. Inspection and Diagnosis. It is the power and duty of the Tree Inspector to enter upon public or private property, at any reasonable time, for the purpose of inspecting for, and diagnosing, shade tree disease. In cases of suspected shade tree disease, and in performance of his duties, the Tree Inspector may remove such specimens, samples and biopsies as may be necessary or desirable for diagnosis.

Subd. 6. Abatement of Nuisance. Abatement of a nuisance, defined herein, shall be by spraying, removing, burning, or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease. Such abatement procedures shall be carried out in accordance with current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith.

Subd. 7. Procedure for Removal of Infected Trees and Wood.

- A. Whenever the Tree Inspector finds with reasonable certainty that the infection, or danger of infection, exists in any tree or wood on any public or private property, he shall proceed as follows:
 - 1. If the Tree Inspector finds that the danger of infection of other trees is not imminent because of dormancy of shade tree disease, he shall make a written report of his finding to the Council which shall proceed by (1) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or (b) abating the nuisance as provided in Subparagraph B of this Subdivision.
 - 2. If the Tree Inspector finds that danger of infection of other trees is imminent, he shall notify the owner of the property, or the abutting property by certified mail that the nuisance will be abated within a specified time, not less than five (5) days from the date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limited by the notice, he may abate the nuisance.
 - 3. If the Tree Inspector finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, he may proceed to abate the nuisance forthwith. He shall report such action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.
- B. Upon receipt of the Tree Inspector's report required by Subparagraph A, Item 1, the Council shall by resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less

than one week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

- C. The Tree Inspector shall keep a record of the costs of abatements done under this Subdivision and shall report monthly to the City Clerk all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.
- D. On or before September 1 of each year the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.
- E. No damage shall be awarded the owner for destruction of any tree, wood, or part thereof pursuant to this Section.

Subd. 8. Spraying Trees.

- A. Whenever the Tree Inspector determines that any tree or wood is infected with infection, he may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this Subdivision shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his agents whenever possible.
- B. The notice and assessment provisions of Subdivision 7 apply to spraying and treatment operations conducted under this Subdivision.

Subd. 9. Transporting Wood Prohibited. It is unlawful for any person to transport elm wood, including elm firewood, with bark intact into or through the city, or into or through any designated "disease control area" as defined by Minnesota Statutes, Section 18.023. This prohibition shall not apply to movement of such wood pursuant to an approved wood disposal or utilization program authorized by Minnesota Statutes, Section 18.023, or to transportation of elm wood intended for industrial use not to include firewood, provided such transportation of elm logs for industrial use continues without interruption through the City or "disease control area" to their intended destination lying outside the City and "disease control area".

Subd. 10. Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the Tree Inspector while he is engaged in the performance of duties imposed by this Section.

Subd. 11. Additional Duties of Tree Inspector. It is the additional duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the city relating to the control and prevention of shade tree disease. He shall recommend to the Council the details of a program for the control of the diseases and perform the duties incident to such a program adopted by the Council.

Subd. 12. Diseased Trees in Streets. The rights, duties and responsibilities of property owners set forth in this Section shall be equally applicable to, and binding upon, abutting property owners with tree maintenance responsibilities under the Section of the City Code entitled "Regulation of Grass, Weeds and Trees".

Subd. 13. Subsidies. The duty of any property owner to bear the cost of removing or maintaining trees, whether by private contract or assessment, shall be subject to a subsidy policy, if any, established by the City for the treatment or removal of trees infected with shade tree disease.

Section 8.11. MAINTENANCE OF PRIVATE PROPERTY.

Subd. 1. It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; and to treat or remove insect-infested or diseased trees thereon.

Subd. 2. If the owner or occupant fails to assume the primary responsibility described in Subdivision 1 of this Section, the police may issue a citation for the violation which is a petty misdemeanor. The fine for the first offense is \$50.00. The second offense is \$75.00. The third offense is \$100.00. In addition, the City may order the grass or weeds be cut or removed by the City employees or by a private contracted party. The City Clerk shall certify to the County Auditor of Itasca County a statement of the amount of the cost incurred by the City. Such amount together with interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

(Section 8.12 through 8.19, inclusive, reserved for future expansion.)

Section 8.20. CURFEW.

Subd. 1. Definition. As used in this Section “minor” means a person under the age of eighteen (18) years.

Subd. 2. Unlawful Acts.

- A. It is unlawful for any minor person to be or loiter upon the streets or public places between the hours of 12:00 o'clock midnight and 6:00 o'clock A.M of the day following. It is also unlawful for any minor person 15 years of age or younger to be on or loiter upon the streets or public places between the hours of 10:00 o'clock P.M. and 6:00 o'clock A.M. of the day following.
- B. It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor to allow or permit such minor to be or loiter upon the streets or public places in violation of this Section unless such minor is accompanied by a person of lawful age having such minor in charge.
- C. It is unlawful for any person operating, or in charge of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor to be or loiter in such place in violation of this Section unless such minor is accompanied by a person of lawful age having such minor in charge. This Subparagraph shall not be construed to permit the presence, at any time, of any person underage in any place where his presence is otherwise prohibited by law.

Subd. 3. Exceptions. Such curfew shall not apply to any minor student who is lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or events.

Section 8.21. UNLAWFUL ASSEMBLY, PRESENCE AT UNLAWFUL ASSEMBLY.

Subd. 1. Unlawful Assembly. It is unlawful for three or more persons to assemble, and each participant shall be guilty of unlawful assembly, if the assembly is: (1) with intent to commit any unlawful act by force; or, (2) with intent to carry out any purpose in such manner as will disturb or threaten the public peace; or, (3) without unlawful purpose but the participants to conduct themselves in a disorderly manner as to disturb or threaten the public peace.

Subd. 2. Presence at Unlawful Assembly. It is unlawful for any person to be present at the place of an unlawful assembly and refuse to leave when so directed by a law enforcement officer.

Section 8.22 HAZARDOUS CONDITIONS.

Subd. 1. Preamble

- A. Private Property. The Council finds that accumulation on private property of unlicensed, unregistered, or inoperable motor vehicles, household furniture, furnishings or appliances, or parts or components thereof, or metal, wood, glass, paper, rubber, concrete, or other material, whether organic or inorganic, can facilitate the growth or spread of noxious weeds, the nesting and breeding of rodents, insects and harmful bacteria, and be a threat of fire. The Council also finds that unless such accumulation is stored in a lawfully operated junk yard, housed within a lawfully erected building, or in a container permitted, and the contents disposed of, under provisions of City Code, it is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the City. The Council finds that if such unauthorized, unwholesome, and dangerous accumulation is permitted to continue to pose such a threat it is a hazardous condition and a nuisance, must be abated, and that this Section is adopted to protect the residents of the City and their property and, in addition, to protect the rights of persons who may be found in violation of its provisions. "Accumulation" as that term is used in this Subparagraph A, means prohibited items in any number or amount.
- B. Business Premises. The Council finds that accumulation upon premises to which the public has access or may be exposed of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing, heating, or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors, can facilitate the nesting and breeding of rodents, insects, and harmful bacteria and is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the City. The Council finds that if such unauthorized, unwholesome, and dangerous accumulation is permitted to continue to pose such a threat it is a hazardous condition and a nuisance, must be abated, and that this Section is adopted to protect the residents of the City and their property and, in addition, to protect the rights of persons who may be harmed in violation of its provisions. "Accumulation" as that term is used in Subparagraph B, means prohibited items or conditions in any number or amount.

Subd. 2. Unlawful Acts.

- A. It is unlawful to park or store any inoperable motor vehicle, household furniture, furnishings or appliances, or parts or components thereof, or scrap metal, wood, glass, paper, rubber, concrete, or other material, whether organic or inorganic, on private property, unless such accumulation is stored within a lawfully-operated junk yard, housed within a lawfully-erected building, or in a container permitted, and the contents disposed of, under other provisions of the City Code.
- B. It is unlawful to permit, on premises to which the public has access or may be exposed, any accumulation of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing, heating or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors.

Subd. 3. Investigating and Notice of Hearing. Upon receipt of any complaint of violation of Subdivision 2 of this Section, or on their own initiative, but at least annually during the month of May, the Council shall investigate the premises and if it is found that there is a hazardous condition and a nuisance on any premises in violation of this Section, the same shall be reported to the City Clerk who shall prepare a Notice of Hearing on Order to Abate Nuisance addressed to owners, tenants, mortgagees and other lien holders, all of whose interest are known to the City Clerk or appear of record, and bearing the legal description of the premises on which the alleged violation appears. The Notice shall state the date, time and place of hearing and describe the violation in general terms.

Subd. 4. Service of Notice. The Notice shall be served at least twenty days before the date of hearing in the following manner: (1) if the person to whom it is addressed resides in the City, or can readily be found therein, it shall be served personally on the addressee or left at his residence with a person of suitable age and discretion; (2) addressees not served personally shall be served by certified mail at their addresses appearing in records (selected by the City of Bovey) of Itasca County; and, (3) by publication of the Notice once in the official newspaper at least ten days prior to the date of the hearing. Inadvertent failure to serve any addressee personally or by certified mail shall not invalidate

the proceedings, but publication shall then suffice.

Subd. 5. Hearing, Findings and Decision.

- A. The hearing shall be held before the Council at a regular or special meeting and conducted in the same manner as an administrative appeal. All persons desiring to be heard shall be afforded an opportunity to present evidence.
- B. At any time after the hearing is closed, but at least at its next regular meeting, the Council shall decide whether the item or items constitute a nuisance in violation of this Section and direct the drawing and serving of Findings of Fact and Decision by certified mail on all addressees. If the Council finds that there is a violation, the decision shall include an Order to Abate Nuisance and specify the date by which abatement shall be completed.
- C. Estimated value, if any, of all offensive items described in Subdivision 2, Subparagraph A, shall be included in the evidence and in the Findings. "Value" for the purpose of this Section means the amount of money, in cash, which can be obtained in a negotiated sale on a known and ready market in the city.

Subd. 6. City to Abate. If abatement of the items described in Subdivision 2, Subparagraph A, is not completed by the date stated in the Order to Abate Nuisance, the City may enter upon the premises, remove the offending items, and clean up the nuisance.

Subd. 7. City Disposal. If the City abates the nuisance it shall dispose of the items as follows:

- A. Any item or items of value shall be sold locally in a negotiated sale.
- B. Items of no value shall be disposed of in a landfill or other site acceptable to governmental regulatory authority.

Subd. 8. Allocation of Proceeds and Assessment. If the City abates the nuisance, all costs thereof, including but not limited to cost of sale, if any, shall be aggregated, sale proceeds deducted, and the remainder certified as a special assessment.

Subd. 9. Failure to Abate Nuisance on Business Premises. If the hazardous condition and nuisance described in Subdivision 2, Subparagraph B of this Section is not abated within the time limit specified, all present licenses issued by the City to carry on the business on such premises shall be revoked, and no further license shall be issued therefore until full abatement has been completed.

Section 8.23. ABANDONING A MOTOR VEHICLE.

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, Chapter 169.

Section 8.24. MINNESOTA UNIFORM FIRE CODE.

The 1982 Edition of the Minnesota Uniform Fire Code is adopted as though set forth verbatim herein. One copy of said Code shall be Marked CITY OF BOVEY – OFFICIAL COPY and kept on file in the office of the City Clerk and open to inspection and use by the public.

Section 8.25. DISORDERLY HOUSES.

Subd. 1. Definitions. Whenever used in this Section, the following terms shall have the indicated meaning:

- A. "Controlled substances" shall have the meaning assigned by Minnesota Statutes, Section 152.01, Subd. 4.

- B. "Prostitution" shall have the meaning assigned by Minnesota Statutes, Section 609.321, Subd. 9.
- C. "Alcoholic beverage" shall have the meaning assigned by Minnesota Statutes, Section 340A.101, Subd. 2.
- D. "Prohibited conduct" shall mean activities occurring in violation of statutes or ordinances relating to any of the following:
 - 1. Gambling.
 - 2. Prostitution, acts relating thereto, or indecent conduct.
 - 3. Sale or possession of controlled substances; or
 - 4. Unlawful sale, possession, or consumption of an alcoholic beverage.
- E. "Disorderly house" shall mean a building, dwelling, establishment, premises, or place where prohibited conduct occurs. If the building, dwelling, establishment, premises, or place is a multi-unit dwelling or residence, hotel, or motel, or commercial or office building, this definition only includes the dwelling unit, room or suite of rooms in the hotel or motel, office rooms or suite, or store in which prohibited conduct occurs.

Subd. 2. Prohibitions.

- A. No person shall own, operate, manage, maintain, or conduct a disorderly house, or invite or attempt to invite others to visit or remain in such disorderly house.
- B. No person shall visit or remain in a disorderly house for the purposes of aiding, abetting, or engaging in prohibited conduct occurring in such disorderly house.
- C. No person shall visit or remain in a disorderly house knowing, or having reason to know, that prohibited conduct in violation of this Section is then occurring.

Section 8.26 SECURING VACANT BUILDINGS.

Subd. 1. Definitions. For the purposes of this Section, the following terms shall have the following meanings:

- A. "City". The City of Bovey, County of Itasca, State of Minnesota.
- B. "Secure". Includes, but is not limited to, installing locks, repairing windows and doors, boarding windows, and doors, posting "no trespassing" signs, installing exterior lighting or motion-detecting lights, fencing the property, and installing a monitored alarm or other security system consistent with Minn. Stat. §463.251.
- C. "Unoccupied Building". A building which is not being used for a legal occupancy.
- D. "Unsecured Building". A building or a portion of a building that is open to entry by unauthorized persons without the use of tools.
- E. "Vacant Building". A building or portion of a building that meets one or more of the following conditions:
 - 1. Unoccupied and foreclosed upon as identified by the County.
 - 2. Unoccupied and windows or entrances to the premises are boarded up or closed off, or multiple windowpanes are broken and unrepaired.
 - 3. Unoccupied and doors to the premises are smashed through, broken off, unhinged, or continuously unlocked.
 - 4. Unoccupied and gas, electric, or water service to the premises has been terminated.
 - 5. Unoccupied and rubbish, trash, or debris has accumulated on the mortgaged premises.

6. Unoccupied and the police or sheriff's office has received at least two reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises.
7. Unoccupied and the premises are deteriorating and are either below or are in imminent danger of falling below minimum community standards for public safety and sanitation.

Subd. 2. Securing Vacant Buildings. In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured, and the building could be made safe by securing the building, the City Council may order the building secured and shall cause notice of the Order to be served consistent with Minn. Stat. 463.251, Subd.

2. The notice must be served upon the owner of record of the premises or the owner's agent, the taxpayer identified in the property tax records for the parcel, the holder of the mortgage or sheriff's certificate for the neighborhood in which the building is located that has requested notice. The notice is served by deliver or mail. The notice must be in writing and must include, at a minimum, a statement that:

- A. Informs the owner and the holder of any mortgage or sheriff's certificate of the requirements found in subdivision Minn. Stat. 463.251, Subd 3 that the owner or holder of the certificate has fourteen (14) days to comply with the order and that costs may be assessed against the property if the person does not secure the building.
- B. Informs the owner and the holder of any mortgage or sheriff's certificate that, within fourteen (14) days of the ordering be served; the person may request a hearing before the governing body challenging the governing body's determination that the property is vacant or unoccupied or hazardous.
- C. Notifies the holder of any sheriff's certificate of the holder's duty under Minn. Stat. 582.031, Subd. 1, paragraph (b), to enter the premises to protect the premises from waste and trespass if the order is not challenged or set aside and there is prima facie evidence of abandonment of the property as described in Minn. Stat. 582.032, Subd. 7.

Service by mail is completed upon mailing a copy of the Order to the owner by first class mail at the last known address.

Subd. 3. Responding to the Notice. The owner of the building or the holder of the sheriff's certificate of sale has fourteen (14) days after the Order is served to do one of the following: 1) comply with the order; 2) provide the Council with a reasonable plan and schedule to comply with the Order; or 3) request a hearing before the City Council to challenge the Council's determination that the property is vacant or unoccupied and hazardous. If the owner or holder of the sheriff's certificate fails to take one of these actions within the allotted time the City Council must have the building properly secured.

Subd. 4. Emergency Securing of Vacant Buildings. Pursuant to Minn. Stat. 463.251, Subd.4 when the City building official, police chief, or fire chief determines that an emergency exists with respect to the health or safety of persons in the community and immediate boarding and securing of a building is required, and where immediate danger will exist to children, transients, or other members of the community without the immediate boarding or securing of the building, the building official, police chief, or fire chief may waive all notice requirements herein and immediately board or otherwise secure the building, provided that:

- A. The conditions showing the existence of an emergency are documented in writing by the building official, police chief, fire chief, or their designees.
- B. Notice is mailed immediately by the department invoking this Section to the owner of record of the premises, the taxpayer identified in the property tax records for the parcel, or the holder of the mortgage or sheriff's certificate.

Subd. 5. Collection of Costs. All costs incurred by the City for securing a vacant building under this ordinance may be charged against the real property as a special assessment pursuant to Minn. Stat. §563.251, 463.21, and 463.151.

Section 8.27. REPEAT CALLS FOR SERVICE.

Subd. 1. Purpose. The purpose of this Section is to protect the public safety, health, and welfare and to prevent and abate repeat service calls by the City to the same property or location for nuisance service calls, as defined herein, which prevent police or public safety services to other residents of the City. It is the intent of the City by the adoption of this Section to impose and collect service call fees from the owner or occupant, or both, of property to which City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover that cost over and above the cost of providing normal law or code enforcement services and police protection City wide.

Subd. 2. Scope and Application. This Section shall apply to all owners and occupants of private property which is the subject or location of the repeat nuisance call by the City. This Section shall apply to any repeat nuisance service calls as set forth herein made by a Bovey peace officer, part time peace officer, community service officer, animal control officer, and code enforcement technicians.

Subd. 3. Definition of Nuisance Call or Similar Conduct. The term "nuisance service call" shall mean any activity, conduct, or condition occurring upon private property within the City which unreasonably annoys, injures or endangers the safety, health, morals, comfort or response of any member of the public; or will, or will intend to, alarm, anger or disturb others or provoke breach of the peace, to which the City is required to respond, including but not limited to the following: (1) any activity, conduct, or condition deemed as a public nuisance under any provision of the State Law; (2) any conduct, activity, or condition constituting a violation of Minnesota state laws prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; and (3) any conduct, activity, or condition constituting disorderly conduct under Chapter 609 of the Minnesota Statutes. The term "public nuisance" shall also include noise complaints, litter, increased vehicular or foot traffic, parking problems or acts showing concern for comfort, security, safety, or decency of the neighborhood.

Subd. 4. Repeat Nuisance Service Call Fee; Amount. The City may impose a repeat nuisance service call fee of \$250.00 upon the owner of private property if the City has rendered services or responded to the property on three (3) or more occasions within a period of 365 days in response to or for the abatement of nuisance conduct, activity, or condition of the same or similar kind. All repeat nuisance service call fees imposed and charged against the owner under this Section shall be deemed delinquent 30 days after the City mailing a billing statement, therefore. Delinquent payments are subject to a ten percent (10%) late penalty of the amount due.

Subd. 5. Notice. No repeat nuisance service call fee may be imposed against an owner, occupant of property or person controlling the property without first providing the owner, occupant, and person controlling the property with written notice of the previous nuisance service calls prior to the latest nuisance service call rendered by the City upon which the fee is imposed. The written notice shall:

- A. State the nuisance conduct, activity or condition that is or has occurred or is maintained or permitted on the property, the dates of the nuisance conduct, activity, or condition.
- B. State the owner or occupant may be subject to a repeat nuisance call service fee if a third nuisance service call is rendered to the property for the same nuisance, in addition to the City's right to seek other legal remedies or actions for abatement of the nuisance or compliance with the law, and
- C. Be served personally or by the U.S. mail upon the owner or occupant at the last known address.

Subd. 6. Right to Appeal Nuisance Service Call Fee.

- A. Upon the imposition of repeat nuisance service call fee, the City shall provide the owner or occupant notice as required in Subd. 5. The City shall also inform the owner or occupant of his/her right to a hearing on the alleged repeat nuisance service calls. The owner or occupant upon whom the fee is imposed may request a hearing by serving upon the City Clerk within five (5) business days of the mailing of the fee invoice, inclusive of the day the invoice is mailed, a written request for hearing. The hearing shall be heard by the City Council or its

appointed hearing officer within fourteen (14) days of the date of the owner's or occupant's request for hearing.

- B. The hearing shall be conducted in an informal manner and the Minnesota Rules of Civil Procedure and Rules of Evidence shall not be strictly applied. The hearing need not be transcribed but may be transcribed at the sole expense of the party who requests the transcription. After considering all evidence submitted, the hearing officer shall make written findings of fact and conclusions of the issue of whether the City responded to or rendered services for repeat nuisance service calls of the same or similar kind on three (3) or more occasions within a 365-day period. The findings and conclusions shall be served upon the owner or occupant by U.S. mail within five (5) days of the notice of the hearing.
- C. An owner or occupant's right to a hearing shall be deemed waived if the owner or occupant fails to serve a written request for hearing as required herein or fails to appear at the scheduled hearing date. Upon waiver of the right to a hearing, or upon the hearing officer's written findings of fact and conclusions that the repeat nuisance call service fee is warranted hereunder, the owner or occupant shall immediately pay the fee imposed.

Subd. 7. Legal Remedies Nonexclusive. Nothing in this section shall be construed to limit the City's other available legal remedies for any violation of the law which may constitute a nuisance service call hereunder, including criminal, civil, injunctive or others.

Section 8.28. CRIMINAL HISTORY BACKGROUND

Subd. 1. The purpose of this Section is to establish regulations that will allow the City of Bovey Police Department to access Minnesota Computerized Criminal Information for specified non-criminal purposes for applicants for concealed weapons or other firearm possession and for employment background checks.

Subd. 2. The City of Bovey Police Department is hereby authorized as the exclusive entity within the City to do criminal history background investigations.

Subd. 3. The Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension Computerized Criminal History information in accordance with the BCA Policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the Chief Law Enforcement Officer, or his or her designee. Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. All information collected is governed by provisions of Minn. Chap. 13.

Subd. 4. The Police Department shall charge a fee of \$25.00 for such investigation. The fee may be adjusted annually when the city sets all other fees in the city.

(Section 8.29 through 8.39, inclusive, reserved for future expansion.)

Section 8.40. DANCES.

Subd. 1. Definitions used in this Section. The following words and terms shall have the meaning stated:

- A. "Public Dance" means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of a money, directly or indirectly, and where such dances conducted on a publicly owned facility and where alcohol is served.

Subd. 2. At least one officer of the law shall be designated by the Chief of Police and employed by the City to be present at every public dance during the entire time of said dance that is being held. For purposes of this subdivision the term "officer of the law" means any person who is full-time or part-time peace officer. In the discretion of the Council or the Chief of Police more than one such peace officer may be required.

Subd. 3. Any cost incurred by the City of providing “officer of the law” shall be reimbursed by the party conducting the dance.

Section 8.41. TOBACCO.

Subd. 1. Definition. As used in this Section, the term “tobacco” means and includes tobacco in any form, including but not limited to, cigarettes, cigars, bagged, canned, or packaged product.

Subd. 2. License Required. It is unlawful for any person, directly or indirectly, to keep for retail sale, sell at retail, or otherwise dispose of any tobacco in any form unless a license therefor shall first be obtained from the City.

Subd. 3. Application and Issuance. Application for such license shall be made at the office of the City Clerk upon forms that have been furnished by the City for such purpose and shall contain such information as required by the form. Upon the filing of the application and license fee, the application shall be presented to the Council for its consideration, and if granted by the Council, the license shall issue.

Subd. 4. License Fee and Term. The license fee shall be fixed and determined by the Council by resolution. All licenses shall expire on December 31 and fees shall be pro-rated based on 1/12th for each calendar month or part thereof remaining in the then current license year. Licenses shall not be transferable between persons.

Subd. 5. Restrictions.

- A. Separate licenses shall be issued for the sale of tobacco at each fixed place of business, and no license shall be issued for a movable place of business.
- B. It is unlawful for any person to sell or give away tobacco in any form to any person under the age of eighteen (18) years.

Section 8.42. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS.

Subd. 1. Definition. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. “Peddler”. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term “peddler” shall mean the same terms as the term “hawker.”
- B. “Person.” Any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent, or employee.
- C. “Regular Business Day.” Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.
- D. “Solicitor.” A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term “canvasser.”

- E. "Transient Merchant." A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling, or attempting to sell, and delivering goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

Subd. 2. Exception to Definitions.

- A. For the purpose of the requirements of this Section, the terms peddler, solicitor and transient merchant shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.
- B. In addition, persons conducting the types of sales commonly known as garage sales, rummage sales or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this Chapter shall not excuse any person from complying with any other applicable provision or local ordinance.
- C. Nothing in this Section shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under Subdivision 7. The term "door-to-door advocacy" includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas.
- D. Nothing in this Chapter shall be interpreted to prohibit or restrict door-to-door solicitors by school organizations or any other tax-exempt entity nor shall it prohibit or restrict door-to-door solicitors by nonprofit organizations listed in 501(c) of the Internal Revenue Code.
- E. Nothing in this Chapter shall be interpreted to prohibit or restrict any city-sanctioned community events, such as Bovey Farmer's Day. Nor does it apply to any newly created city-sanctioned community events that are a part of a collaboration of vendors which are separately permitted through a larger group and permitted by Itasca County.

Subd. 3. Licensing; Exemptions.

- A. County License Required. No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the County as required by M.S. Ch. 329 as it may be amended from time to time if the County issues a license for the activity.
- B. City License Required. Except as otherwise provided for by this Chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City.
- C. Application. Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to conduct business. Applications for a license shall be made on a form approved by the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:
 - 1. Applicant's full legal name.
 - 2. All other names under which the applicant conducts business or to which applicant officially answers.
 - 3. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).

4. Full address of applicant's permanent residence.
 5. Telephone number of applicant's permanent residence.
 6. Full legal name of all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent.
 7. Full address of applicant's regular place of business (if any).
 8. All business-related telephone numbers of the applicant.
 9. The type of business for which the applicant is applying for a license.
 10. Whether the applicant is applying for an annual or daily license.
 11. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).
 12. All addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.
 13. A statement as to whether the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
 14. A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
 15. Proof of any requested county license.
 16. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
 17. A general description of the items to be sold or services to be provided.
 18. All additional information deemed necessary by the city council.
 19. The applicant's driver's license number or other acceptable form of identification.
 20. The license plate number, registration number and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.
- D. Fee. All applications for a license under this Section shall be accompanied by the fee established in the ordinance establishing fees and charges as it may be amended from time to time.
- E. Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Clerk must issue the license unless there exist ground for denying the license, in which case the City Clerk must deny the license. If the City Clerk denies the license, the applicant must be notified in writing of the decision, the reason for denial and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the city council. The city council shall hear the appeal within 20 days of the date of the request. The decision of the city council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

- F. Duration. An annual license granted under this Section shall be valid for one calendar year from the date of issue. All other licenses granted under this Section shall be valid only during the time period indicated on the license.

- G. License Exemptions.
 - 1. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
 - 2. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of constitutional rights is hereby incidental to commercial activity.
 - 3. Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.

Subd. 4. License Ineligibility. The following shall be grounds for denying a license under this Section:

- A. The failure of the applicant to obtain and show proof any having obtained any required county license.
- B. The failure of the applicant to truthfully provide any of the information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
- C. The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include, but not be limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- D. The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- E. The applicant is found to have a bad business reputation, Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

Subd. 5. License Suspension and Revocation.

- A. Generally. Any license issued under this Section may be suspended or revoked at the discretion of the city council for violation of any of the following:
 - 1. Fraud, misrepresentation, or incorrect statements on the application form.
 - 2. Fraud, misrepresentation, or false statements made during the licensed activity.
 - 3. Conviction of any offense for which granting of a license could have been denied.
 - 4. Violation of any provision of this Section.
- B. Multiple persons under one license. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

- C. Notice. Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.
- D. Public hearing. Upon receiving the notice provide in Subparagraph C of this Subdivision, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of this request. Within three regular business days of the hearing, the city council shall notify the licensee of its decision.
- E. Emergency. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this Section, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in Subparagraph C of this Subdivision.
- F. Appeals. Any person whose license is suspended or revoked under this Section shall have the right to appeal that decision in court.

Subd. 6. License Transferability. No license issued under this Section shall be transferred to any person other than the person to whom the license was issued.

Subd. 7. Registration. All solicitors, and any person exempt from the licensing requirements of this Chapter, shall be required to register with the City. Persons engaging in door-to-door advocacy shall be required to register. The term "door-to-door advocacy" includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of Registration shall be transferable.

Subd. 8. Prohibited Activities. No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

- A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- B. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- C. Conducting business in a way as to create a threat to the health, safety, and welfare of any individual or the general public.
- D. Conducting business before 7:00 o'clock A.M. or after 9:00 o'clock P.M.
- E. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
- F. Making false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.
- G. Remaining of the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or

abusive.

Subd. 9. Exclusion by Placard. No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.

Section 8.43. SYNTHETIC DRUG ESTABLISHMENTS

Subd. 1. Findings of Fact and Statement of Purpose. The Bovey City Council finds the following facts to exist:

- A. Synthetic drugs are commonly marketed as a safe and legal alternative to marijuana or other controlled substances.
- B. Ingestion of synthetic drugs has been shown to produce dangerous side effects such as headaches, agitation, nausea, vomiting, hallucinations, loss of consciousness, elevated blood pressure, tremors, seizures, addiction, paranoid behavior, anxiety, increased heart rate, and even death.
- C. The Bovey Police Department has advised the city council of a significant increase in the use of synthetic drugs within the city, and the manufacture and sale of synthetic drugs is negatively affecting the health, safety, and welfare of the citizens of Bovey.
- D. Due to the manner in which these substances are marketed, the manufacture and sale of synthetic drugs is, purportedly, not currently regulated by the Federal Drug Administration.
- E. Due to the ease of making slight molecular alterations to chemical compounds, law enforcement agencies have found it difficult to bring criminal charges against manufacturers and sellers of synthetic drug products.
- F. The purpose of this Section is not to condone illegal activity nor is it to legitimize activity that may now or in the future be considered illegal activity under state or federal laws.
- G. Synthetic drugs are currently being sold as legal products without even the basic regulation and licensing requirements that many other businesses have within the city.

Subd. 2. Definitions. For the purposes of this Section, the following words and phrases shall have the meaning hereinafter ascribed to them:

- A. "Synthetic drug." The term synthetic drug means one or more of the following:
 1. A substance that a reasonable person would believe is a synthetic drug.
 2. A substance that a reasonable person would believe is being purchased or sold as a synthetic drug; or
 3. A substance that a person knows or should have known was intended to be consumed by injection, inhalation, ingestion, or any other immediate means, and consumption was intended to cause or simulate a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance on Schedule 1. Synthetic drug does not mean food and drug ingredients, alcohol, legend drugs, tobacco, or dietary supplements.
- B. "Synthetic drug establishment". Synthetic drug establishment means any business

establishment where any person engages in the sale of synthetic drugs.

Subd. 3. License Required. No person shall engage in the business of operating a synthetic drug establishment either exclusively or in connection with any other business enterprise without first obtaining a license for each synthetic drug establishment.

Subd. 4. Application for License. Application for a synthetic drug establishment license shall be made to the City Clerk on forms supplied by the city containing the following information:

- A. A description of the business.
- B. A description of the location of the premises to be licensed.
- C. The full names and addresses of the property owner, business owner, lessee and manager, operator, and the date of birth of each.
- D. If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the synthetic drug establishment; and
- E. Whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense, and if so, a description of the offense as to time, place, date and disposition.

The annual license fee shall be set in accordance with the City of Bovey fee schedule. A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place on the licensed premises at all times. A license, unless revoked, shall be effective January 1 through December 31 annually.

Subd.5. Issuance.

- A. No license under this Section shall be issued unless it is approved by the City Clerk-Treasurer upon advice from the police department and unless the establishment has passed fire and health inspections. The City Clerk shall not approve any license if he or she has reasonable grounds to believe:
 - 1. That the granting of said license would result in violations of the law.
 - 2. That the license application contains false and misleading statements; or
 - 3. That other good cause exists for denying the license.
- B. If the Chief of Police or the City Clerk finds that they do not have adequate information to evaluate the license application, they may direct the applicant, manager or agent to appear at any reasonable time and place to give under oath information concerning the application. No license shall be granted to any applicant who refuses to appear and cooperate with the investigation.

Subd.6. Prohibited Acts. No synthetic drug establishment shall:

- A. Remain open between 8:00 o'clock P.M. and 8:00 o'clock A.M. on any day.
- B. Sell synthetic drug products that do not include the name, phone number and address of the manufacturer, packer and distributor of the product.
- C. Sell synthetic drug products that do not identify all commodities within the package, including organic and non-organic, chemically synthesized substances and compounds.
- D. Sell synthetic drug products to any individual under the age of 21.
- E. Sell synthetic drug products that do not comply with all state and federal laws and regulations, including those related to packaging, labeling, and weights and measures; and
- F. Be located within 500 feet of any park, school, day care facility or area zoned residential or mixed-use neighborhood. This restriction shall not apply to a synthetic drug establishment

that was conducting business at the location indicated in the application and making sales of synthetic drugs at that location on or before January 30, 2014.

Subd.7. Suspension and Revocation of Licenses. The City Clerk may revoke or suspend any license issued pursuant to this Section, if, after giving the licensee an opportunity to be heard on the matter, such officer finds:

- A. The licensee has violated a provision of this Section or any other law relating to the conduct of its operation including, but not limited to, state, federal or local laws; or
- B. The licensee secured the license through misrepresentation or fraud or misstated any material fact in the application; or
- C. Failure of the licensee to cooperate with the police, fire or health officers in any investigation relating to their operations or failure to admit police officers into the establishment at any time when people are present in the establishment; or
- D. The establishment is operated in such a way as to endanger public health or safety; or
- E. The establishment is operated in such a way as to constitute a public nuisance as defined in Minn. Stat. § 609.74 or successor statute.

Subd.8. Appeals. Any person aggrieved by a licensing decision of the City Clerk under this Section may appeal such decision to the city council by filing a written notice of appeal with the City Clerk within 15 days after such decision is rendered. The decision of the city council is the final administrative decision of the city.

Subd.9 Other Applicable Laws. This Section is intended to complement state and federal laws regulating synthetic drugs.

(Section 8.44 through 8.49, inclusive, reserved for future expansion.)

Section 8.51 Public Nuisance and/or Blight Prohibited

Subd. 1 Public Nuisance and/or Blight Prohibited: No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance and/or blight within the city or within its police jurisdiction.

Subd. 2 Public Nuisance Defined:

- A. Generally. A public nuisance is a thing, act, occupation, condition, or use of property which shall continue for such length of time as to:
 - 1. Substantially annoy, injure, or endanger the comfort, health, repose or safety of the public.
 - 2. In any way render the public insecure in life or in the use of property; or
 - 3. Greatly offend the public morals or decency; or
 - 4. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.
- B. Public Nuisance Affecting Health: The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of subsection (a) of this section:
 - 1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

2. Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within hours after death.
 3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, junk, inoperable or unused vehicles, or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.
 4. All stagnant water, not naturally occurring, in which mosquitoes, flies or other insects can multiply.
 5. Garbage cans which are not fly-tight.
 6. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the city limits in such quantities as to endanger the health of persons or ordinary sensibilities or to threaten or cause substantial injury to property.
 7. The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, creamery or industrial wastes or other substances.
 8. Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.
 9. All abandoned wells not securely covered or secured from public use.
- C. State defined nuisance. Any nuisance so defined by Minnesota Statutes or by the common law of the State of Minnesota is also a nuisance under this chapter.

Subd. 3 Blight Defined

- A. Causes of Blight or Blighted Factors: It is hereby determined that the uses, structures and activities, and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. On and after the effective date of this ordinance (subd.4), no person, firm or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the City of Bovey owned, leased rented or occupied by such person, firm or corporation:
1. In any area zoned for residential and residential business purposes, the storage upon any property of junk automobiles. For the purpose of this ordinance, the term "junk automobiles" shall include any motor vehicle, part of motor vehicle or former motor vehicle stored in the open, which is not currently licensed and/or is either (1) unusable or inoperable because of lack of, or defects in component parts; or (2) unusable or inoperable because of damage from collision, deterioration, or having been cannibalized; or (3) beyond repair and therefore not intended for future use as motor vehicle; or (4) being retained on the property for possible use of salvageable parts.
 2. In any area zoned as a residential district, residential business, or commercial district the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed 30 days. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open; remnants of wood; decayed, weathered or broken construction materials no longer suitable or safe; approved building materials; metal or any other material or cast-off material of any kind whether or not the same could be put to any reasonable use.
 3. In any area the existence of any structure or part of any structure which because of fire, wind, or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended. All buildings or structures so dilapidated or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.

4. In any area zoned for residential purposes, the existence of any vacant dwelling, garage, or other outbuildings, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto to vandals.
5. All buildings and structures, both existing and new and all parts thereof shall be maintained in a sanitary condition by having an exterior of either masonry, wood, vinyl, aluminum, or an industry approved finished siding. Completion date shall be twenty-four (24) months from issuance of permit and or twelve (12) months from letter of notice by the City Zoning Officer.
6. Lawns and grass on any property within the Bovey city limits and open to view shall not exceed (6) inches in height within 30 feet of any building, nor shall weeds and grass be allowed to go to seed thereon. Exceptions shall be as follows:
 - Wetland buffer (50 feet)
 - Storm water pond.
 - Heavily forested or wooded (includes brush).
 - Park of nature preserve.
 - Active agricultural field or garden.
 - Slopes in excess of 3 to 1.
 - Shore impact zones.
7. All accumulations of residential/commercial/industrial garbage on any property within the Bovey city limits between normal collection or haul away dates that is not in secure (from rodents and insects), rain proof, and sanitary (no smell/odor/doesn't leak) containers.
8. Compost and brush piles:
 - Compost piles shall be screened from public view (right-of-ways, public property, and public waters).
 - Brush piles shall be burned or removed from the property within three (3) months or screened from public view (right-of-way, public property, and public waters).

Subd. 4 Abatement of Public Nuisances and/or Blight

- A. Whenever any nuisance is found on any property, the Zoning Officer and/or Police Officer, shall notify the owner or occupant thereof to remove the same at his expense within a time not to exceed fourteen (14) days which exact time shall be specified in said notice. Said notice shall be accompanied by a State Citation and the fine amount shall be set at \$300.00 for the first offense, \$500.00 for the second offense, and \$1,000.00 for the third and subsequent offenses. Said notice shall be signed by the Zoning Officer and/or Police Officer and shall be addressed to the person in charge of the premises on which said nuisance is found, and shall contain a brief description of the material causing said public nuisance and/or blight and a description of the premises upon which the same is located, and setting forth that, unless the nuisance is abated or removed within said time, the City will deliver the aforementioned citation to the Itasca County Courts for prosecution issue and court order to abate the public nuisance and/or blight at the expense of the property owner. The property owner shall be notified in said notice to contact the City Clerk to set up a re-inspection prior to the fourteen (14) days, if public nuisance and/or blight has been removed, citation will be deleted.

(Section 8.52 through 8.97, inclusive, reserved for future expansion.)

Section 8.98. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions thereof.

Section 8.99. ORDINANCES REPEALED.

The following ordinances shall be repealed upon passage and publication of this ordinance. Ordinance (9-2-86), (92-4), (5-16-94), (3-05-90-1), (05, 7-6), (11-0706).