

Bovina, Texas



Founded In 1899

**Code
of the
City of Bovina**

City of Bovina

CODIFICATION OF CITY ORDINANCES

WHEREAS THE TEXAS MUNICIPAL LAW AND PROCEDURES MANUAL, §3.16 STATES THAT A MUNICIPALITY MAY CODIFY ITS CIVIL AND CRIMINAL ORDINANCES TOGETHER WITH APPROPRIATE PENALTIES FOR VIOLATION;

WHEREAS, THE CITY OF BOVINA DESIRES TO ADOPT AN ORDINANCE ADOPTING AND ENACTING THE “BOVINA CITY CODE”, COMPILED AND CODIFIED BY THE AUTHORITY OF THE CITY COUNCIL; CONTAINING THE PERMANENT, GENERAL ORDINANCES OF THE CITY; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES OF A PERMANENT NATURE NOT INCLUDED IN THE CODE IN FULL OR BY REFERENCE; PROVIDING A PENALTY FOR WRONGFULLY CHANGING OR TAMPERING WITH THE CODE; REGULATING THE BRINGING OF THE CODE UP TO DATE; PROVIDING FOR CERTIFICATION OF COPIES OF THE CODE, AND FOR SALE OF COPIES THEREOF; AND PRESCRIBING THE TIME WHEN THE CODE SHALL BECOME EFFECTIVE, **NOW THEREFORE be it ordained by the City Council of the City of Bovina, Texas:**

SECTION 1. CODE ADOPTED; HOW CITED.

a. The Code of Ordinances compiled and codified for the City of Bovina, Texas, by authority of the City Council, entitled “Bovina City Code”, consisting of the subsections (§) enclosed, is adopted and enacted for the City of Bovina, Texas.

b. The Code may be cited as “Bovina City Code” or “City Code” or “the Code” or other properly identifying designation. When a supplement or supplements have been prepared and inserted in the Code as provided herein below, the words “as amended” may be added to the citation or title when referring to the Code as amended.

SECTION 2. PERMANENT, GENERAL ORDINANCES NOT INCLUDED IN THE CODE ARE REPEALED.

a. All ordinance and parts of ordinances of a permanent, general nature, or temporary passed prior to the time of this Code is adopted and in effect at the time the Code is adopted, but not included in the Code in full or by reference, are hereby repealed as of the time when the Code goes into effect.

b. The repeal of ordinances and parts of ordinances of a permanent, general nature, or temporary by the above section of this ordinance shall not affect any offense committed or act done, or contract, right, or obligation established prior to the time when said ordinances and parts of ordinances are repealed.

SECTION 3. CERTIFICATION.

a. The Mayor shall carefully examine at least one copy of the Code adopted by this ordinance to see that it is a true and correct copy of the Code and sign the ordinance, and the City Secretary shall attest and seal it with the Seal of the City.

b. A copy of the Code as originally adopted or amended, so bound, certified, and sealed, shall constitute the permanent, general ordinances of the City as of the date indicated on the title page and in certificate, and shall be so accepted by courts of law, administrative tribunals, and others concerned.

c. One copy of the Code so bound, certified, and sealed most recently, shall be kept in the City Hall at all times, and may be inspected by any interested person at any time during normal working office hours; but may not be removed from the City Hall except upon proper order of a court of law or the City Council.

SECTION 4. PERMANENT, GENERAL ORDINANCE PASSED AFTER THIS CODE IS ADOPTED.

Ordinances and parts of ordinances passed or adopted after this code is adopted may be passed or adopted in the form of amendments to the Code of Ordinances adopted by this ordinance; and all amendments and

changes made thereby in the Code, shall be inserted and made in the Code whenever a supplement is prepared for the Code.

a. A supplement to the Code of Ordinances adopted by this ordinance shall be prepared and printed whenever directed or authorized by the City Council. The pages of the supplement shall be numbered such that they will fit properly into the Code and, where necessary, replace pages which have become obsolete or partially obsolete; and the new pages shall be prepared that, when they have been inserted, the Code will be up to date to the date to which the Code is being brought up to date.

b. When preparing a supplement, the codifier must make the necessary changes to embody them in a unified code.

c. Each supplement shall include a new title page for the Code; and the title page shall include a notation below the title indicating that the Code contains all current ordinances passed prior to the date to which the Code is brought up to date and still in effect. The words "as amended" may be added to the title.

d. With prior approval of the City Council, a supplement may include new material in appendices to the Code for the convenience of persons using the Code.

e. Every supplement shall include an index supplement if needed to index the materials in the supplement, supplements, or a new index to the Code.

f. In preparing every supplement, the codifier shall be subject to the direction and supervision of the City Attorney

SECTION 5. PENALTY FOR ALTERING OR TAMPERING WITH THE CODE. Any person, firm, or corporation who alters, changes, or amends the Code of Ordinances adopted by this ordinance except in the manner prescribed by this ordinance, or who alters or tampers with the Code in any manner so as to cause the ordinances of the City to be misrepresented thereby, is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00).

SECTION 6. SALE OF COPIES OF THE CODE. The City Secretary is hereby authorized and directed to sell copies of the Code of Ordinances to the public at a price to be determined from time to time by the City Council.

SECTION 7. SEVERABILITY. If a part of the Code of Ordinances adopted by this ordinance or of this ordinance is invalid, all valid parts which are severable from the invalid parts remain in effect. If a part of this Code or of this ordinance is invalid in one or more of its applications, the part remains in effect in all valid applications which are severable from the invalid applications.

SECTION 8. ENFORCEMENT. Unless otherwise stated in this Code or higher authority, any person who violates this Code is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than \$10.00 and not more than \$500.00. Each day that one or more of the provisions in this Code is violated shall constitute a separate offense. Compliance with this Code may also be sought through injunctive relief in the district court.

SECTION 9. EFFECTIVE DATE. This ordinance and the Code of Ordinances adopted by it shall take effect upon passage, approval, and publication of this ordinance.

PASSED AND APPROVED this 8th day of April 2003 and is passed and approved by the City Council of the City of Bovina, Parmer County, Texas.

Galen Hromas
Mayor of Bovina
City of Bovina

ATTEST:

Bonnie Scaff
City Secretary

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§ 1.00 Form of Government

§ 1.10 Form of City Government. In accordance with Volume 69 page 463 of the Deed Records of Parmer County, Texas, the City of Bovina is and has been since 26 January 1947 incorporated as a Type A, General Law Municipality, in accordance with the Texas Municipal Law and Procedure Manual.

§ 1.20. Composition of Governing Body. The City of Bovina is not divided into wards, therefore the governing body consists of a mayor and five aldermen who are elected by the qualified voters of the municipality.

§ 1.30. Qualifications of Members of Governing Body, IAW LGC §22.032, relating to Type A municipalities.

a. Standard Requirements: IAW EC §141.001(a), the standard eligibility requirements for a city office, a candidate must:

- (1) be a United States Citizen;
- (2) be 18 years of age or older on the first day of the term to be filled at the election;
- (3) have not been determined mentally incompetent by a final judgment of a court;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) have resided continuously in the state for 12 months and in the city or in the district or ward, as applicable, for six months immediately preceding the deadline for filing an application for a place on the ballot (for a write-in candidate, preceding the date of the election).

b. To be eligible for the office of mayor of the municipality, a person must be a registered voter and must have resided within the municipal limits for at least the 12 months preceding the Election Day. For purposes of this subsection, residency in an area while the area was not within the municipal limits is considered as residency within the limits if the area is a part of the municipality on Election Day.

c. To be eligible for the office of alderman of the municipality, a person must be a registered voter and must reside on Election Day in the ward from which the person may be elected.

d. In accordance with the Local Government Code § 21.002, a member of the governing body (Mayor and/or Councilman) may volunteer for an organization that protects the health, safety, or welfare of the City regardless of whether the organization is funded or supported in whole or part by the City. The member may be a volunteer before filing an application for place of the ballot or being elected as a member of the governing body or may volunteer after filing or being elected.

§ 1.40. Regular Term of Office.

a. The mayor and aldermen of the municipality are elected for a term of two years, and the offices are staggered: The Mayor and two aldermen are elected one year, and the remaining three aldermen are elected the following year.

b. On the fifth day after the date of the election, excluding Sundays, or as soon as possible after that fifth day, the newly elected governing body of the municipality shall meet at the usual meeting place and shall be installed.

§ 1.50. Mayor as Presiding Officer and *Ex Officio* Municipal Judge; President Pro Tempore

a. The mayor shall preside at all meetings of the governing body of the municipality and, except in elections, may vote only if there is a tie.

b. At each new governing body's first meeting or as soon as practicable, the governing body shall elect one alderman to serve as president pro tempore for a term of one year.

c. If the mayor fails, is unable, or refuses to act, the president pro tempore shall perform the mayor's duties and is entitled to receive the fees and compensation prescribed for the mayor.

d. If the mayor and the president pro tempore are absent, any alderman may be appointed to preside at the meeting.

e. The Mayor of the City of Bovina shall serve as *Ex Officio* Judge of the Municipal Court and shall have and exercise the authority, jurisdiction, and power which are conferred by law upon the Judge. In the case of the absence, disqualification, or disability of the Mayor, for any cause, to act, then the Mayor Pro Tem shall act as such Judge.

§ 1.60. Meetings

a. The governing body of the municipality shall meet at the time and place determined by a resolution adopted by the governing body, usually on a Thursday night during the first full week of each month as close to the 8th as possible.

(1) No action can be taken on any item unless that item has been posted on the Agenda for that meeting and the Agenda posted in a public place seventy-two (72) hours prior to the meeting. However, additional items may be received as information.

(2) The City Manager will establish procedures and policies for submission of Agenda items to the City Secretary.

(3) All Council members, city staff, or Bovina citizens may submit agenda items, individually or as a group. The submission of a request for an item to be placed on the agenda must be specific and contain an explanation of the purpose of the item and the effect of the items' enactment.

(4) One week prior to the regular meeting, the City Manager, working in conjunction with the Mayor, will exercise his/her best judgment in determining the most important items received for placement on the agenda and adding other items of business to come before the Council.

(5) When Agenda packets for regular meetings are prepared, those packets will be mailed out to the Mayor and Council not later than the day after the agenda is set by the meeting of the Mayor and City Manager. This should afford ample time for all council members to read the material, to inquire into the nature of each matter to be discussed, or to personally investigate the matter so as to better inform himself or herself before a Council Meeting. Council members are encouraged to call the City Manager or the appropriate staff regarding questions about items on the agenda or any other matter concerning the City.

(6) The Agenda shall be posted in a public place, seventy-two (72) hours prior to the meeting and certified by the City Secretary. This will be accomplished by posting a certified copy on the City Hall bulletin board and on the front door.

(7) The City Secretary will assume responsibility for issuing to the newspaper, a copy of the Agenda advising them of the date, time, place, and items to be discussed at all council meetings. In addition, the City Secretary will notify each individual who has placed an item on the Agenda of the fact that they are expected to be at the meeting to discuss their item.

(8) Emergency Items: In the event that a situation arises in which the Mayor, City Manager, or Council Members can legitimately classify as an emergency as specified in the statutes, that item may be added to the agenda as late as two hours before a meeting. In such event, the nature of the emergency must be specified in the Agenda and notices given to any who filed a written request for the same.

b. The mayor may call a special meeting on the mayor's own motion or on the application of three aldermen. Each member of the governing body, the city administrator, the secretary, and the municipal attorney must be notified of the special meeting. The notice may be given personally or left at the person's usual place of residence.

c. The governing body shall determine the rules of its proceedings.

(1) Council Proceedings: These procedures shall apply to all meetings of the City Council. The Mayor shall be the presiding officer at all meetings of the City Council and have a voice in all of its proceedings, but the Mayor shall have no vote except in the event of a tie vote by the Council. Council members shall speak in Council Meetings only upon being recognized by the presiding officer, whose recognition shall not be unreasonably withheld. In the event of the absence of the Mayor, the Mayor Pro-tem shall be the presiding officer. The Mayor Pro-tem shall be able to have a vote in all matters, as the Mayor Pro-tem continues to be a Council Member even when presiding. In the event of the absence of the Mayor and Mayor Pro-tem, the

Council Members in attendance, if constituting a quorum, shall select one of its members to preside over the meeting. Council Members shall refrain from private conversations with one another within the meeting.

(a) Call to Order: All meetings will begin promptly at the hour stated. A quorum shall be the attendance of a majority of the members of the Council (Mayor and three Councilmen or four Councilmen). In the event of there not being a quorum at the time the meeting is called to order, the council may discuss matters, but shall not take any action until a quorum is present. In the event a Council Member leaves the council room and the remaining Council Members do not constitute a quorum, the council may continue to discuss matters, but may take no vote or take no action.

(b) Agenda: Ordinarily the Mayor or presiding officer will follow the agenda as published; however the presiding officer shall, subject to the approval of the Council, the prerogative of addressing items out of order should such change facilitate guests or other factors.

(c) Presentation of Agenda Items: Agenda items will be presented by the City Manager or the City Manager may call upon a staff member, guest, or Council Member, subject to being recognized by the presiding officer, to present the item. Staff members may attend Council Meetings and be available as resource persons. This does not preclude a staff member from representing himself or herself at a meeting.

(i) Agenda items may be presented by the one who asked for the item to be placed on the Agenda.

(ii) The absence of the person requesting the item on the Agenda does not prevent the Council's deliberation of that item or require the Council to table nor skip consideration of that item.

(d) Presentations from the Floor: All guests and other persons who are to speak to the City Council, including staff members, other than the City Manager, City Attorney, or City Secretary who are seated at the table, shall wait in the audience until recognized. When called by the presiding officer for presentation, that person shall stand, or move to the podium if available, and make their presentation. The speaker shall identify himself or herself by name, address, agency represented, and nature of the presentation prior to beginning. The speaker shall remain standing or at the podium until all Council questions have been answered and the speaker has been dismissed by the Mayor.

(e) Council Action: Any Councilmen may call for the question on any issue, and upon seconding by another councilmember; the issue to call for the question shall immediately be put to a vote. The Council may agree to limit debate on any business before it. That agreement should be formalized by a majority of the Council on a roll call vote prior to any deliberation on that item. Any Councilmen may request a roll call vote at any time. The chair shall not entertain any dilatory or delaying motions. After the Council has heard all of the facts, reviewed the supporting data, and listened to the arguments for and against each agenda item, it will act by approving or disapproving a motion. In the event that there is no motion or no second to a motion, no action will be deemed taken.

(i) The City Council acts in one of two methods. It may adopt a resolution or an ordinance. A resolution is an expression of the will of the Council. The resolution may be written to honor some person, to recognize an event, to ask the City administration to look into a matter, perform a task, to execute a contract, or to fulfill some other desire of the Council. An ordinance is a law or regulation. The Council adopts an ordinance to set traffic regulations, to establish zoning or land use regulations, to set the tax rate, etc. Both ordinances and resolutions require the presentation of the item on the Agenda, a motion and a second to the motion, and an affirmative vote by a majority of those present and voting.

(ii) From time to time, a question is raised about the legality of a person making a motion and then voting against his/her own motion. There is nothing wrong with that. The person may be opposed to an action and wants the motion on the floor, so that person can register the opposing vote.

(iii) There may be situations in which the presiding officer concludes that there is a consensus among the Council and that the issue is one that would not

require an official vote and states for the record the determination of the Council. (i.e. "Hearing no objection, so ordered.")

(2) Minutes of Meetings: Minutes of all meetings will be kept by the City Secretary. The City Secretary will record the proceedings and the tapes will be kept for at least six months (currently, all minutes are being kept as a historical document for the City) unless there have been questions raised which indicate possible need to keep the records longer. The minutes will record the presence of each council member, each city staff member, and all guests who register their attendance. The minutes will include all areas of discussion and identify each speaker and then, as far as possible, the key point or points that were made. The minutes will not be a verbatim recording of all discussions. The minutes will reflect all motions made, who made and who seconded the motions, and the outcome of each motion including the roll call vote if requested. The minutes will include the key points of any specific comments made by members for the record.

(a) The minutes shall not include verbatim copies of statements or any extraneous discussions; however any Council Member who desires to have a verbatim statement included as a part of the minutes shall provide a typed copy of such verbatim statement to the City Secretary prior to the presentation of such statement. The statement will not be typed into the minutes, but will be attached to the minutes and so noted.

(b) Minutes may be amended should a Council Member recognize an incorrect statement and then may be approved by the City Council without a motion unless a Council Member desires otherwise. After allowing time for review, the presiding officer may state that the minutes are approved as read or amended.

(3) Procedure: All meetings, regular and special, shall be chaired by the Mayor or in his absence the Mayor Pro-tem or in their absence by a councilman elected by the governing body in attendance. The order of the meeting will follow the published agenda as closely as practicable and will follow the following format, with Closed Sessions listed in accordance with Chapter 551 of the Texas Government Code:

(a) Call Meeting to Order

(b) Invocation

(c) Reading and Approval of Minutes of the Previous Meeting

(d) Consider and Approve Vouchers

(e) Presentations by Citizens

(f) Old Business:

(g) New Business:

(h) Items from Council: *This part of the agenda is provided for five (5) minutes per Councilman to present matters other than ordinances, resolutions, and other matters requiring formal action.*

(i) City Manager Comments:

Fund Balance Reports

Police and Municipal Court Reports

Setting date for next meeting

(j) Adjourn: *If there is no further business, the Mayor can adjourn the meeting. If all of the items listed in the agenda have not been considered and disposed of, a majority vote is required to adjourn.*

(4) Decorum and Debate: It is imperative that the Chairperson maintain order at all times. The Chair must not permit debate or comments from any one not recognized. Interruptions must be silenced by voice, use of the gavel, or other means, and, in the event of any person's failure to heed the directions of the Chair, the Chair may have that individual removed from the room.

(a) When a measure is presented to the Council for consideration, the chair shall recognize the appropriate individual to present the case. When two or more members wish to speak, the chair shall name the member to speak first and may direct the other to speak next. No member of the Council shall interrupt another who is speaking except to make a point of order. Unless otherwise directed by the governing body, no member shall speak more than five (5) minutes on any question or amendment to the question.

(b) No Councilmember shall be permitted to indulge in personalities, use language personally offensive, arraign motives of members, charge deliberate misrepresentation, or use language tending to hold a member of the City Council up to contempt.

(5) Citizen Participation at Meetings.

(a) All citizens attending any regular or special Council meeting are welcome and may be requested to sign a visitor register. Their names will be added to the minutes of said meeting by the City Secretary as a matter of record. Persons wishing to speak to or address the Council must notify the City Secretary at least seventy-two (72) hours prior to the scheduled meeting. Ordinarily, one who wishes to address an agenda item will be invited to speak when the agenda item comes up for discussion. One who wishes to address a subject not on the agenda will have an opportunity to speak during the agenda item "Presentations by Citizens".

(b) To maintain decorum, the Chair, at all meetings, may ask the citizens present if they wish to speak for or against any item on the agenda. If so, they will be given an opportunity to do so at the proper time, when recognized by the chair. Ordinarily the chair will designate one who is to speak in favor of an item to speak and be followed by one who is against that same item. If more than five (5) citizens wish to address the Council on any single agenda item, those citizens are advised to select a spokesperson to represent their case.

(c) No citizen, staff member, or councilmember may speak or otherwise interrupt any meeting until recognized by the presiding officer.

(d) Citizens who wish to bring up a matter not on the agenda at a meeting may do so under the agenda item "Presentations by Citizens" and Councilmen who wish to bring up a matter not on the agenda at a meeting may do so under the agenda item "Items from Council. However, the Council is prohibited from acting on any item that has not been posted on the agenda. Those items presented may be taken up in following scheduled meetings.

(e) As a general rule, citizens may not participate in the discussions of the Council workshop sessions.

Note: The purpose of the meeting of the City Council is for the council members to conduct the affairs of the City. Council meetings are not public forums for the public to debate among themselves. Visitors are always welcome to offer proposals, suggestions, or constructive criticism, but they will not be permitted to indulge in personalities, derogatory comments, offensive language, or interruptions.

d. The governing body may be compensated (*Article 16, Section 40, of the Texas Constitution prohibits a state employee from receiving pay for serving on a local governing body.*) at a rate of:

(1) For the Mayor, \$50 per regular meeting and \$26 per special meeting per month.

(2) For Alderman, \$25 per regular meeting and \$13 per special meeting per month.

e. An alderman shall be fined \$3 for each meeting that the alderman fails to attend unless the absence is caused by the alderman's illness, the illness of a family member, or is excused by the Mayor or the Mayor Pro Tempore.

§ 1.70. Quorum. A majority of the number of aldermen established by § 1.20 for the municipality constitutes a quorum.

§ 1.80. Other Municipal Officers.

a. In addition to the members of the governing body of the municipality, the other officers of the municipality are the City Administrator, City Secretary, Municipal Judge, Municipal Police Chief, Municipal Attorney, and any other officers or agents authorized by the governing body.

b. The governing body by this codification ordinance shall provide for the election or appointment of the officers provided by this section.

c. The governing body may confer on other municipal officers the powers and duties of an officer provided for by this section.

§ 1.90. Powers and Duties of Municipal Officers; Bond

a. The governing body of the municipality may require a municipal officer whose duties are prescribed by this code to perform additional duties.

b. The governing body may prescribe the powers and duties of a municipal officer appointed or elected to an office under this code whose duties are not specified by this code.

c. The governing body may require a municipal officer to execute a bond payable to the municipality and conditioned that the officer will faithfully perform the duties of the office.

§ 1.100. Advisory Boards.

a. Board of Adjustment.

(1) There is hereby created a Board of Adjustment, known herein as the Board, consisting of five (5) members, each to be nominated by the Mayor and confirmed and appointed by the City Council for a term of two (2) years and removable for cause by the appointing authority.

(a) Vacancies shall be filled by the appointing authority of a suitable person to serve out the unexpired term of any member whose place on the Board has become vacant for any cause. The Board shall designate from its members a chairman and a secretary, who shall perform the duties of such officers and in case of the absence of either of such officers from the meeting of such Board another of the members of the Board shall be designated to act in his place.

(b) The Board is advisory in nature to the City Council, without any ordinance making authority, and shall from time to time make suggestions and give opinions concerning zoning, planning, and building subjects.

(c) The Board is hereby vested with the power and authority in appropriate cases, specifically § 150 within this Code, and subject to appropriate conditions and safeguards to make such exemption from the terms of this ordinance in harmony with its general purpose and intent and in accordance with general or special rules therein contained for the purpose of rendering full justice and equity to the general public.

(d) The Board may adopt rules to govern its proceedings provided, however that such rules are not inconsistent with this ordinance. Meetings of the board shall be held at the call of the chairman and at such times as the board may determine. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of the board on each question.

(2) Appeals to the Board may be taken by any person aggrieved by a decision of any administrative officer of the City of Bovina concerning the interpretation of enforcement of this ordinance or by any office or department of the municipality affected by any decision of such administrative officer.

(a) Such appeal shall be taken within ten (10) days time after the decision has been rendered by the administrative officer, by filing with the office from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof; the officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal shall stay all proceedings of the action appealed from unless the officer from the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated on the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application and on notice to the officer from whom the appeal is taken and on due cause shown.

(c) The Board shall fix a reasonable time for the hearing of an appeal, give the public notice thereof by advertising such hearing one time in a newspaper of general circulation in the City of Bovina, not less than three (3) days prior to such hearing as well as due notice of the interest and decide the same within a reasonable time. Upon the hearing any party may appear in person or by attorney or agent.

(3) The Board shall have the following powers:

(a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official of the City

of Bovina, in the enforcement of this ordinance upon which the Board is required to pass under this ordinance.

(b) To hear and decide special exceptions to the terms of the ordinance upon which the Board is required to pass under this ordinance.

(c) To authorize upon appeal in special cases, such variances from the terms of this ordinance as will not be contrary to public interest, where, owing to special conditions the literal enforcement of the provisions of this article will result in unnecessary hardship and so that the spirit of this article shall be observed and substantial justice done.

(4) The concurring vote of four (4) members of the Board shall be necessary to revise any order, requirement, decision of determination of any matter upon which it is required to pass under this ordinance or to effect any variance in said ordinance.

(5) Any person or persons, jointly or severally aggrieved by any decision of the Board, any taxpayer and any officer, or department of the municipality may present to a court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision on the office of the Board and not thereafter to be determined by said court in accordance with law.

b. Cemetery Board.

(1) There is hereby created a Cemetery Board consisting of three (3) members, each to be nominated by the Mayor and confirmed and appointed by the City Council for a term of two (2) years and removable for cause by the appointing authority. Vacancies shall be filled by the appointing authority of a suitable person to serve out the unexpired term of any member whose place on the Cemetery Board has become vacant for any cause. The Cemetery Board shall designate from its members a chairman and a secretary, who shall perform the duties of such officers and in case of the absence of either of such officers from the meeting of such Cemetery Board another of the members of the Board shall be designated to act in his place.

(2) The Cemetery Board is advisory in nature to the City Council, without any ordinance making authority, and shall from time to time make suggestions and give opinions concerning zoning, planning, and building subjects.

c. Bovina Housing Authority.

(1) There is hereby created a Bovina Housing Authority (BHA) consisting of five (5) members, each to be nominated by the Mayor and confirmed and appointed by the City Council for a term of two (2) years, alternating with two members appointed in the year of the Mayor's election or re-election and three members during the off year and removable for cause by the appointing authority. Vacancies shall be filled by the appointing authority of a suitable person to serve out the unexpired term of any member whose place on the Bovina Housing Authority has become vacant for any cause. (a) One of the three BHA members appointed during the off election year for the Mayor must be a tenant of the housing project over which the BHA has jurisdiction.

(b) The tenant BHA member appointed under § 1.100.c.(1)(a), above, may not serve more than two consecutive two-year terms.

(2) The Bovina Housing Authority is advisory in nature to the City Council, subject to the requirements of the open meetings act, without any ordinance making authority, and shall conduct the affairs of the Housing Authority in accordance with the Texas LGC § 392 and Bovina's City Code § 2.70 and § 140.00.

(a) The BHA and their meetings are subject to the Open Meetings Act, Government Code Chapter 551, and the Texas Public Information Act, Government Code 552.

(b) The presumption is that all meetings are open to the public.

(c) The BHA agenda will be posted on the City Hall bulletin board, three days (72 hours) prior to the meeting.

(3) The Bovina Housing Authority shall make all reports necessary to the USDA as required, make all budget preparations for the Bovina Housing Authority, and prepare all plans and management policies as required by City ordinance and the USDA.

(4) The BHA shall pay, monthly, a sum of money, as determined by the City's Budget, to reimburse the City for an office, overhead, payroll, and other required services in return for the City establishing a full time position with benefits.

d. Economic Development Board.

(1) There is hereby created a Economic Development Board consisting of seven (7) Directors, each to be nominated by the Mayor and confirmed by the Bovina City Council.

(2) The Economic Development Board is subject to supervision from the City Council and will make all plans and determinations concerning monies from the Economic Sales Tax for the City of Bovina, in accordance with § 160.00. Economic Development Board, and the Bovina City Council will have approval authority over procedures, by-law changes, policies, budgets, and expenditures of the Bovina Economic Development Corporation.

§ 2.00 Municipal Officers

§ 2.10. City Administrator/City Manager.

a. The City of Bovina has established the position of City Administrator/City Manager.
b. The Governing Body of the City of Bovina shall appoint a City Administrator for the City of Bovina who shall be the administrative head of the municipal government under the direction and supervision of the Governing Body.

(1) The City Administrator/City Manager serves at the pleasure of the governing body.

(2) The City Administrator/City Manager may be removed by the City Council for incompetence, corruption, misconduct, malfeasance in office, or a resolution declaring a lack of confidence, provided that two-thirds (2/3) of the entire City Council votes in favor of said resolution, after due notice and an opportunity to be heard in defense.

c. The City Administrator may or may not be a resident of the City of Bovina when appointed, but shall reside within the City of Bovina before the probation period is completed.

d. During the absence or disability of the City Administrator, the Governing Body shall designate some properly qualified person to perform the duties of said office.

e. The powers and duties of the City Administrator shall be:

(1) Serves as chief administrator and executive officer of the City. Ensures that all laws and City Ordinances are enforced, follows City Council guidelines and instructions. Responsible to the City Council for proper administration of all City affairs and responsibilities that may be assigned by Charter, Ordinance, or direction of the City Council.

(2) Supervises, appoints, and removes all heads of departments and subordinate officers and employees of the City. Has control over all departments and subdivisions. Represents the City in all public utility franchise concerns and insures that such public utility franchises are properly kept and performed. Initiates and follows through with corrective action to rectify any violations. Attends all meetings of the Council and participates in discussions and makes recommendations to the Council as appropriate.

(3) Acts as the Budget Officer and prepares annual City Budget, recommend adoption, to act as the purchasing agent for the City, within the guideline as set forth in § 4.50.b. and to purchase all merchandise, material, and supplies to assure all City activities are performed in accordance with the annual budget. Advises the City Council on financial condition of the City and pending needs. Prepares policy and procedural proposals for review and approval by the City Council. Coordinates City activities with other agencies, advises business and civic organizations on City activities, recommends ordinances, resolutions, contracts, and other procedural items to the Council.

(4) It shall be the responsibility of the City Administrator to co-sign all monetary instruments which are necessitated by the normal conduct of daily City business. By virtue of the City Administrator's co-signing the monetary instrument, he acknowledges that the monetary instrument is for a valid expenditure incurred by the City while conducting normal business in conformance with all State laws.

§ 2.20. City Secretary

a. The City of Bovina has established the position of City Secretary.

b. Works under the supervision of and serves at the pleasure of the City Administrator/City Manager.

c. The City Secretary of the municipality shall attend each meeting of the governing body of the municipality and shall keep, in a record provided for that purpose, accurate minutes of the governing body's proceedings.

d. The City Secretary shall:

(1) engross and enroll all laws, resolutions, and ordinances of the governing body;

(2) keep the corporate seal;

(3) take charge of, arrange, and maintain the records of the governing body;

(4) countersign all commissions issued to municipal officers and all licenses issued by the mayor, and keep a record of those commissions and licenses; and

(5) prepare all notices required under any regulation or ordinance of the municipality.

e. The City Secretary shall keep on file the name of each person who is elected or appointed as mayor, municipal court judge, or clerk of a municipal court of the municipality.

f. The City Secretary shall draw all the warrants on the treasurer, and keep, in a record provided for that purpose, an accurate account of the warrants.

g. The City Secretary serves as the general accountant of the municipality and shall keep regular accounts of the municipal receipts and disbursements. The City Secretary shall keep each cause of receipt and disbursement separately and under proper headings. The City Secretary shall also keep separate accounts with each person, including each officer, who has monetary transactions with the municipality. The City Secretary shall credit accounts allowed by proper authority and shall specify the particular transaction to which each entry applies. The secretary shall keep records of the accounts and other information covered by this subsection.

h. The City Secretary shall keep a register of bonds and bills issued by the municipality and all evidence of debt due and payable to the municipality, noting the relevant particulars and facts as they occur.

i. The City Secretary shall carefully keep all contracts made by the governing body.

j. The City Secretary shall perform all other duties required by law, ordinance, resolution, or order of the governing body, to include forwarding and filing run sheets for ambulance billing..

§ 2.21. Certification of City Secretaries

a. A person may be certified to practice as a municipal secretary in this state. The person shall be granted a certificate on completion of a program of instruction for municipal secretaries conducted at an institution of higher education.

b. This section does not require a person to be certified as a municipal secretary in order to practice in that capacity.

§ 2.30. Municipal Judge.

a. The City of Bovina has established the position of Municipal Judge and the City of Bovina Municipal Court, with the power to hear and determine all cases of alleged violations of ordinances of the city and all other cases over which municipal courts are generally given jurisdiction by State law.

b. The Municipal Judge will be under general guidance of the Mayor of the City of Bovina and the supervision of the City Administrator/City Manager.

(1) The Mayor with the approval of the City Council shall appoint the Municipal Judge of the City.

(2) The Municipal Judge shall be appointed for a term of two (2) years and such terms shall coincide with the term of the Mayor.

(3) The Municipal Judge shall take office immediately following appointment.

(4) The Municipal Judge may be removed by the City Council for incompetence, corruption, misconduct, malfeasance in office, or a resolution declaring a lack of confidence, provided that two-thirds (2/3) of the entire City Council votes in favor of said resolution, after due notice and an opportunity to be heard in defense.

(5) The Mayor, with the approval of the City Council, shall from time to time appoint such qualified individuals as necessary to serve in the office of the Judge of the Municipal Court if the presiding judge, or Mayor as *ex officio* judge of the court is unavailable, unable, or unwilling to serve, and shall have the power of acting Judge of the Municipal Court as may be required. No alternate or temporary Judge shall serve for a term to exceed thirty (30) days without reappointment.

c. Responsible for functions and operations of the City of Bovina Municipal Court.

d. Responsible for scheduling and conducting trials, hearings, and pleas.

e. Responsible for all reporting required by the City or other regulatory bodies.

Maintains all required records for Court duties and actions.

f. Coordinates with other local, county, and state agencies to ensure proper function of the Municipal Court.

g. Ensures hours of operation are adequate to meet needs.

§ 2.40. City Attorney

- a. The City of Bovina has established the position of City Attorney.
- b. The City Attorney will be under the supervision of and serves at the pleasure of the City Administrator/City Manager.
- c. The City Attorney provides any and all necessary legal council to the governing body and administration of the City.
- d. The City Attorney, as necessary, shall conduct all prosecutions in the Municipal Court.
 - (1) If there is no City Attorney or if the City Attorney is absent, sick, or unable to act from any cause, then the County Attorney of Parmer County shall conduct the prosecutions for the City until the City Attorney shall be qualified and able to act.
 - (2) In the case of necessity, where the County Attorney is unable or unwilling to act, the Judge has the authority to appoint any competent attorney to conduct any proceeding(s) of any kind in this court, but this appointment shall be only temporary.

§ 2.50. Municipal Police Chief.

- a. The City of Bovina has establish the position of Police Chief and the City of Bovina Police Department.
- b. The Police Chief will be under the supervision of and serves at the pleasure of the City Administrator/City Manager.
- c. Duties and responsibilities:
 - (1) Has the powers, rights, duties, and jurisdiction granted to or imposed on a peace officer by the Code of Criminal Procedure; and
 - (2) Other powers and duties as prescribed by the governing body.
- d. In charge of general law enforcement and public safety activities in the City of Bovina, responsible for providing police protection and law enforcement services to all residents of the City of Bovina. Responsible for developing, maintaining, and implementing an adequate regimen of police services. Responsible for general practices and policies of police activities. Coordinates with other local, county, and state law enforcement to ensure adequate protection for the city and its residents. Enforces City ordinances, state, and federal laws in an equitable and consistent manner. Maintains official policy manual meeting all legal requirements and defining levels of service for police functions.
- e. . Functions as the Department Head and supervises such positions as may be authorized by the City Council. When authorized positions exist, supervise all police officers and other public safety personnel employed by the City, including the Ex Officio clerk of the Municipal Court. Ensures that adequate police protection is available on a reasonable work cycle schedule. Responsible for public relations between the department and the public.
- f. Serves as Emergency Management Coordinator for the City of Bovina.
- g. Responsible for general maintenance on all equipment and vehicles issued to the Police Department. Ensures that all relevant equipment and vehicles are maintained in operational order and in a manner that presents a professional appearance.
- h. Provides monthly reports on police activities to the City Council.
- i. Responsible, as the department head, to assist with budget preparation.

§ 2.60. Superintendent of Public Works

- a. The City of Bovina shall establish the Department of Public Works and the position of Superintendent of Public Works.
- b. The Superintendent of Public Works will be under the supervision of and serves at the pleasure of the City Administrator/City Manager.
- c. In charge of water, wastewater, streets, cemetery, parks, and fleet operations.
 - (1) Responsible For safe and proper operation of water and wastewater system.
 - (2) Responsible for collecting and submitting water/wastewater samples to regulatory authorities.
 - (3) Responsible for completing and submitting any required forms or certifications to regulatory authorities regarding water/wastewater operations.

(4) Maintains and repairs water and wastewater transmission, collection, and distribution systems.

(5) Maintains the City streets.

(6) Connects and disconnects City services.

(7) Responsible for general maintenance of all City property, including cemetery and parks.

d. Responsible for oversight of trash collection by contract company of record and removing other trash from alleys.

e. Responsible for the operation of the City Maintenance Shop.

f. Functions as the Department Head and supervises such positions as may be authorized by the City Council.

g. Assists with budget preparation for the Public Works Department.

§ 3.00. Municipal Boundaries

§ 3.10. Map of Municipal Boundaries and Extraterritorial Jurisdiction

a. The City of Bovina shall prepare a map that shows the boundaries of the municipality and of its extraterritorial jurisdiction. A copy of the map shall be kept in the office of the secretary or clerk of the municipality.

b. If the municipality annexes territory, the map shall be immediately corrected to include the annexed territory. The map shall be annotated to indicate:

- (1) the date of annexation;
- (2) the number of the annexation ordinance.

c. If the municipality's extraterritorial jurisdiction is expanded or reduced, the map shall be immediately corrected to indicate the change in the municipality's extraterritorial jurisdiction.

§ 3.20. Notice of Municipal Boundary Change. If an area is annexed to or disannexed from a municipality, the mayor or other presiding officer of the governing body of the municipality shall, within 30 days after the date of preclearance under Section 5, Federal Voting Rights Act (42 U.S.C. Sec. 1973c), of the annexation or disannexation, send to the county clerk of each county in which the municipality is located a certified copy of documents showing the change in boundaries.

§ 3.30. Extraterritorial Jurisdiction

a. The City of Bovina declares it the policy of the City to designate certain areas as the extraterritorial jurisdiction (ETJ) of the City of Bovina to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the City of Bovina.

b. The extraterritorial jurisdiction of the City of Bovina is the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located within one-half mile of those boundaries

c. When a the City of Bovina annexes an area, the extraterritorial jurisdiction of the municipality expands with the annexation to comprise the area around the new municipal boundaries., consistent with § 3.30.b.

d. The extraterritorial jurisdiction of a the City of Bovina may expand beyond the distance limitations imposed by § 3.30.b. to include an area contiguous to the otherwise existing extraterritorial jurisdiction of the municipality if the owners of the area request the expansion.

§ 3.40. Requirements Applying to Petition

a. A petition must:

- (1) be written;
- (2) request that the area be annexed or that the services be made available, as appropriate;
- (3) be signed in ink or indelible pencil by the appropriate voters and landowners;
- (4) be signed, in the case of a person signing as a voter, as the person's name appears on the most recent official list of registered voters;
- (5) contain, in the case of a person signing as a voter, a note made by the person stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;
- (6) contain, in the case of a person signing as a landowner, a note made by the person opposite the person's name stating the approximate total acreage that the person owns in the area to be annexed or serviced;
- (7) describe the area to be annexed or serviced and have a plat of the area attached; and
- (8) be presented to the secretary or clerk of the municipality.

b. The signatures to the petition need not be appended to one paper.

c. Before the petition is circulated among the voters and landowners, notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the area to be annexed or serviced and by publishing the notice once, in a newspaper of general circulation serving the area, before the 15th day before the date the petition is first circulated.

Proof of posting and publication must be made by attaching to the petition presented to the secretary or clerk:

(1) the affidavit of any voter who signed the petition, stating the places and dates of the posting;

(2) the affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication; and

(3) the affidavit of at least three voters who signed the petition, if there are that many, stating the total number of voters residing in the area and the approximate total acreage in the area.

§ 3.50. Continuation of Land Use

a. The City of Bovina may not, after annexing an area, prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:

(a) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(b) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

b. For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

c. This section does not prohibit the City of Bovina from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002 of the Texas Local Government Code;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substances;

(7) a regulation relating to the sale and use of fireworks; or

(8) a regulation relating to the discharge of firearms.

§ 4.00. Financial

§ 4.10. Fiscal Year.

- a. The Fiscal Year shall begin on 1 October and end on 30 September of each year.
- b. The Budget Officer will have prepared, by 15 August of each year, a budget to cover all proposed expenditures of the City for the succeeding Fiscal Year.
- c. The budget will be prepared in conformity with the Laws of the State of Texas.
- d. The Budget Officer shall prepare a zero-based budget with the assistance of any and all members of the administrative staff, which should include Department Heads and advice and council of the governing body, that allows itemization of the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes made for the preceding year. The budget must show as definitely as possible each of the projects for which expenditures are set up in the budget and the estimated amount of money carried in the budget for each project.
- e. The budget must contain a complete financial statement of the municipality that shows:
 - (1) the outstanding obligations of the municipality;
 - (2) the cash on hand to the credit of each fund;
 - (3) the funds received from all sources during the preceding year;
 - (4) the funds available from all sources during the ensuing year;
 - (5) the estimated revenue available to cover the proposed budget; and
 - (6) the estimated tax rate required to cover the proposed budget.
- f. In preparing the budget, the budget officer may require any municipal officer or board to furnish information necessary for the budget officer to properly prepare the budget.
- g. The budget officer shall file the proposed budget with the municipal clerk before the 30th day before the date the governing body of the municipality makes its tax levy for the fiscal year.
- h. The proposed budget shall be available for inspection by any taxpayer.
- i. The governing body of a municipality shall hold a public hearing on the proposed budget. Any taxpayer of the municipality may attend and may participate in the hearing.
- j. The governing body shall set the hearing for a date occurring after the 15th day after the date the proposed budget is filed with the municipal clerk but before the date the governing body makes its tax levy.
- k. The governing body shall provide for public notice of the date, time, and location of the hearing.
- l. The governing body of a municipality shall publish notice before a public hearing relating to a budget in at least one newspaper of general circulation in the county in which the municipality is located.
- m. Notice published under this section is in addition to notice required by other law. Notice under this section shall be published not earlier than the 30th or later than the 10th day before the date of the hearing.

§ 4.20. Adoption of Budget

- a. At the conclusion of the public hearing, the City Council shall take action on the proposed budget.
- b. The City Council may make any changes in the budget that it considers warranted by the law or by the best interest of the municipal taxpayers.

§ 4.30. Filing of the Approved Budget Filed. On final approval of the budget by the governing body of the City, the City Secretary shall file the budget with the municipal clerk of the City of Bovina and with the County Clerk, Parmer County, Texas.

§ 4.40. Levy of Taxes and Expenditure of Funds Under Budget; Emergency Expenditure.

- a. The governing body of the municipality may levy taxes and set utility fees only in accordance with the approved budget.
- b. After final approval of the budget, the City Manager and/or governing body may spend municipal funds only in strict compliance with the budget, except in an emergency.

c. The governing body may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the governing body amends the original budget to meet an emergency, the governing body shall file a copy of its order or resolution amending the budget with the municipal clerk, and the clerk shall attach the copy to the original budget.

d. After the adoption of the budget or a budget amendment, the budget officer shall provide for the filing of a true copy of the approved budget or amendment in the office of the county clerk of the county in which the municipality is located.

§ 4.50. Purchasing Guidelines.

a. Purchases of less than \$50. In order to expedite the purchasing process on a daily basis where the purchase of small items are concerned (janitorial supplies, office supplies, maintenance, etc.), an approved “vendors charge list” may be established or the issuance of a credit card may be issued and used by department heads and authorized personnel. The charge procedure would be subject to all budget limits that would apply to any purchase method. In the event goods or services were solicited from a vendor not listed on the approved charge list, then a purchase requisition would be required prior to purchase.

b. Purchases between \$50 and \$4,000. Purchases up to and not to exceed \$4,000 may be authorized by the purchasing agent/City Administrator/City Manager as long as it has been budgeted and remains within the current year’s budget guidelines.

c. Purchasing exceeding \$4,000. Purchases exceeding \$4,000 shall be approved by the City Council, first in the annual budget or in a budget amendment, and second be approved again by the City Council after completion of a Purchase Order.

d. Section §252.021, Local Government Code will be in effect and applicable in all situations where applicable.

§ 4.55. Credit Card Authorization.

a. Credit cards will be issued to department heads, City Manager, Public Works, Police Chief, Mayor, EMS director, and Fire Chief with the approval of the city manager. The City Secretary will be the authorized point of contact for such cards. Each person that is using the card will be responsible for maintaining and providing receipts to the City Secretary. The cards must be used for purchases pertaining to the city only. Failure to retain the proper documentation will result in repayment by the person responsible for each card.

§ 4.60. Annual Tax Rate and Tax Levy.

a. That there shall be and the same is hereby levied and shall be assessed and collected for the Fiscal Year 2006, 1 October 2005 through 30 September 2006, an ad valorem tax of fifty-eight and .0000 cents (\$0.580000) on each one hundred dollars (\$100) worth of property at one hundred percent (100%) assessed valuation located within the present city limits of the City of Bovina, made taxable by law, which said taxes when collected shall be appropriated among the funds and departments of said City government of the City of Bovina for the purposes hereinafter set forth, as follows, to-wit:

For the General Fund	\$0.580000
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b. The *ad valorem* tax rate of fifty-eight and .0000 cents (\$0.580000) as set forth in § 4.60.a. above, is hereby levied and shall be assessed and collected on each one hundred dollars (\$100) worth of property located within the City of Bovina as valued by the Equalization Board and made taxable by the City of Bovina law.

c. The adoption of this tax rate will impose maintenance and operations taxes greater than in the previous year and:

“The effect of the tax rate increase on a ‘typical’ \$100,000 home is an increase of \$30.00 per year.”

d. The Tax Assessor and Collector for the City of Bovina is hereby directed to assess, extend, and enter upon the tax rolls of the City of Bovina, Texas, for the current taxable year, the amounts and rates herein levied and to keep a current account of same, and when so collected, the same to be deposited in the depository of the City of Bovina to be distributed in accordance with this Ordinance.

§ 4.70. Authority to Take Legal Action Pursuant to Collection of Monies Owed to the City. The City, through the Governing Body and/or Municipal Officers, may take any and all legal actions necessary to recover monies owed, by individuals and businesses, to the City as a result of services, bonds, liens, notes, or any other action taken by the City in accordance with this Code and to assess a 10% annual interest rate commencing on the date of filing of a Statement of Expenses and Notice of Lien.

§ 4.80. Health Benefits:

a. The City Council authorizes the City Manager to inter into an agreement and to negotiate an agreement between the City of Bovina and TML Intergovernmental Employee Benefits Pool, effective 1 July 2003, to provide health benefits coverage to employees, dependents, and/or retirees in accordance with the City’s Employee Policy.

b. Definitions:

(1) Employee, for this section, shall be defined as a full time regular employee.

(2) Dependent, for this section, shall be defined as a member of an employee’s family.

(3) Retiree, for this section, shall be an employee who qualifies for retirement under the TML Retirement System.

c. The City hereby adopts the following benefit plans to be provided:

(1) Medical Plan

(2) Dental Plan

(3) Vision Plan

(4) Employee Basic Life Plan for \$15,000

d. The City will contribute 100% to the employee plan.

e. The employee and retiree, effective 1 July 2003, will contribute 100% to the dependent and retiree plan.

f. Any additional coverage elected by the employee shall be paid by the employee through payroll deduction.

§ 4.90. Investment Policy

a. Policy Statement:

(1) It is the policy of the City that the administration of its funds and the investment of these funds shall be handled as its highest public trust. Investments shall be made in a manner which will provide the maximum security of principal invested through limitations and diversification while meeting the daily cash flow need of the City and conforming to all applicable state statutes governing the investment of public funds.

(2) The receipt of a market rate of return will be secondary to the requirements for safety and liquidity. It is the intent of the City to be in complete compliance with local law and the Texas Public Funds Investment Act (the “Act”). The earnings from the investment will be used in a manner that best serves the interests of the City.

b. Scope: This investment policy applies to all the financial assets and funds of the City. The City commingles its funds into one pooled investment fund for investment purposes for efficiency and maximum investment opportunity. These funds are defined in the City’s Comprehensive Annual Financial Report (CAFR) and include:

General Fund
Special Revenue Funds
Debt Service Funds
Capital Projects Funds
Proprietary Funds
All Other Funds

And any new funds created by the City unless specifically exempted by the City Council and this policy.

c. Objectives and Strategy:

(1) It is the policy of the City that all funds shall be managed and invested with four primary objectives, listed in order of their priority: safety, liquidity, diversification, and yield. Investments are to be chosen in a manner which promotes diversity by market sector, credit, and maturity. The choice of high-grade government investments and high-grade, money market instruments are designed to assure the marketability of those investments should liquidity needs arise. To match anticipated cash flow requirements the maximum weighted average maturity of the overall portfolio may not exceed six months.

(a) Safety of Principal: Safety of principal is the foremost objective of the City. Investments of the City shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

(b) Liquidity: The City's investment portfolio will be based on a cash flow analysis of needs and will remain sufficiently liquid to enable it to meet all operating requirements which might be reasonably anticipated.

(c) Diversification: Diversification of the portfolio will include diversification by maturity and market sector and will include the use of a number of broker/dealers for diversification and market coverage. Competitive price comparisons will be used on each sale and purchase, where and whenever possible.

(d) Yield: The City's investment portfolio shall be designated with the objective of attaining a market rate of return, taking into account the City's risk constraints and cash flow needs of the portfolio. "Market rate of return" may be defined as the average yield of the current six month U. S. Treasury Bill.

(2) Effective cash management is recognized as essential to good fiscal management. Cash management is defined as the process of managing monies in order to ensure maximum cash availability. The City shall maintain a comprehensive cash management program which includes collection of accounts receivable, prudent investment of its available cash, disbursement of payments in accordance with invoice terms and the management of banking services.

d. Legal Limitations, Responsibility, and Authority: Direct specific investment parameters for the investment of public funds in Texas are found in the Public Funds Investment Act, Chapter 2256, Texas Government Code, (the "Act"). The Public Funds Collateral Act, Chapter 2257, Texas Government Code, specifies collateral requirements for all public funds deposits. All investments will be made in accordance with these statutes.

e. Delegation of Investment Authority:

(1) The City Manager, acting on behalf of the City, is designated as the Investment Officer (IO) of the City and is responsible for investment management decisions and activities. The IO is also responsible for considering the quality and capability of staff, investment advisors, and consultants involved in investment management and procedures. All participants in the investment process shall seek to act responsibly as custodians of the public trust.

(2) The IO shall develop administrative procedures for the operation of the investment program which are consistent with this Investment Policy. Procedures will include reference to safekeeping, bank service contracts, and other investment related activities.

(3) The IO shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities, such as:

(a) Control of Collusion.

(b) Transaction authority separated from accounting and record

keeping.

(c) Custodial safekeeping.

(d) Avoidance of physical securities.
(e) Clear delegation of authority to subordinate staff members.
(f) Written confirmation for telephone (voice) transactions for investments and wire transfers.
(g) Development of a wire transfer agreement with the depository bank or third party custodian.

f. Prudence:

(1) The standard of prudence to be used in the investment function shall be the “prudent person” standard and shall be applied in the context of managing the overall portfolio. This standard states:

“Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the expected income to be derived.”

(2) Limitation of Personal Liability: The IO and those delegated investment authority under this Policy, when acting in accordance with the written procedure of this Policy and in accord with the Prudent Person Rule, shall be relieved of personal liability in the management of the portfolio provided that deviations from expectations for a specific security’s credit risk or market price change or portfolio shifts are reported in a timely manner and that appropriate action is taken to control adverse market effects.

g. Internal Controls:

(1) The IO shall establish a system of internal controls in accordance with this policy, designed to prevent loss of public funds due to fraud, employee error, misrepresentation by third parties, unanticipated market changes, or imprudent actions by employees of the City.

(2) Cash Flow Forecasting: Cash flow forecasting is designed to protect and sustain cash flow requirements of the City. Supplemental to financial and budgetary systems, the IO will maintain a cash flow forecasting process designed to monitor and forecast positions of investment purposes.

h. Authorized Investments:

(1) Acceptable investments under this policy shall be limited to instruments listed below and as further described by the Public Funds Investment Act.

(a) Obligations of the United States Government, its agencies and instrumentalities, and government sponsored enterprises, not to exceed two years to stated maturity, excluding collateralized mortgage obligations (CMOs);

(b) Fully insured or collateralized certificates of deposit from a bank doing business in the State of Texas and under the terms of a written depository agreement with the bank, not to exceed one year to stated maturity;

(c) Repurchase agreement and reverse repurchasing agreements as defined by the Act, not to exceed 180 days to stated maturity, provided an executed Bond Market Master Repurchase Agreement is on file with the City and the counterparty bank or primary dealer. Flex repurchase agreements used specifically for capital projects may extend beyond two years but only to match the expenditure plan of the projects;

(d) No-load, SEC registered money market funds, each approved specifically before use by the City;

(e) Constant dollar Texas Local Government Investment Pools as defined by the Public Funds Investment Act; and,

(f) If additional types of securities are approved for investment by public funds by state statute, they will not be eligible for investment by the City until this policy has been amended and the amended version approved by the City Council.

(2) Delivery versus Payment: All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery versus payment (DVP) basis. (There are two types of delivery of securities: delivery versus payment and delivery versus receipt or DVR also called free. Delivery versus payment means delivery of securities with an exchange of money for the securities. Delivery versus receipt means delivery of securities with an exchange of a signed receipt for the securities.)

(3) All investments and/or changes to investments will be presented to and approved by the Bovina City Council.

i. Authorized Financial Dealers and Institutions: All investments made by the City will be made through either the City's banking services bank or a primary dealer.

j. Diversification and Maturity Limitations:

(1) It is the policy of the City to diversify its investment portfolio. Invested funds shall be diversified to minimize risk or loss resulting from over-concentration of assets in a specific maturity, specific issuer, or specific class of securities. Diversification strategies shall be established and periodically reviewed. At a minimum, diversification standards by security type and issuer shall be:

Security Type	Max % of Portfolio
U.S. Treasury obligations	100%
U.S. Government agencies and instrumentalities	not to exceed 50%
Fully insured or collateralized CDs	not to exceed 30%
Repurchase agreements	100%
Money Market funds	100%
For Bond funds	80%
Local Government Investment Pools	
Liquidity Pools	100%
Maximum percent ownership of pools	not to exceed 20%
For Bond Funds	not authorized

(2) The IO shall be required to diversify maturities. The IO, to the extent possible, will attempt to match investment with anticipated cash flow requirements. Matching maturities with cash flow dates will reduce the need to sell securities prior to maturity, thus reducing market risk. Unless matched to a specific requirement, the IO may not invest more than 20% of the portfolio for a period of greater than one (1) year. Unless matched to a specific requirement, the IO may not invest any portion of the portfolio for a greater period than two (2) years.

k. Safekeeping and Collateralization:

(1) The laws of the State and prudent treasury management require that all purchased securities be bought on a delivery versus payment basis and be held in safekeeping by either the City, an independent third party financial institution, or the City's designated banking services depository.

(2) All safekeeping arrangements shall be designated by the IO and an agreement of the terms executed in writing.

(3) All securities pledged to the City for certificates of deposit or demand deposits shall be held by an independent third party bank doing business in Texas. The safekeeping bank may not be within the same holding company as the bank from which the securities are pledged.

(4) Collateralization on time and demand deposits over the FDIC insurance coverage of \$100,000 and purchase agreements: In order to anticipate Markey changes and provide a level of additional security for all funds, the collateralization level required will be 102% of the market value of the principal and accrued interest. Collateral will be held by an independent third party safekeeping agent.

l. Performance Evaluation and Reporting: The IO shall submit monthly reports to the City containing sufficient information to permit an informed outside reader to evaluate the performance of the investment program and consistent with statutory requirements. All reports shall be in compliance with the Act.

m. Depositories: Every three (3) years, the City shall select one banking institution through a process of "Request for Proposal for Banking Services" of local banks and will enter into a "Bank Depository Agreement" with the local bank selected. In selecting a depository, the credit worthiness of the institution shall be considered. This institution will be used for normal banking services including disbursements, collections, and safekeeping of securities.

§4.100. SPS Franchise Agreement

a. Franchise Authorization

(1) That subject to the terms, conditions, and provisions of this ordinance, the City of Bovina (City) does hereby grant unto Southwestern Public Service Company (SPS) a corporation under the laws of the State of New Mexico, having a permit to do business in the State of Texas, its successors and assigns, the right, privilege, and franchise to conduct an electrical lighting and power business within the boundaries of the City, as such boundaries now exist or may hereafter be extended.

(2) SPS shall have the right to enter, erect, construct, maintain, extend, repair, replace, and remove in, under, upon, within, over, above, across, and along any and all of the present and future public roads, highways, streets, lanes, alleys, and other public rights-of-way of the City now or hereafter owned or controlled by the City a system of poles, pole lines, towers, distribution lines, transmission lines, underground, and above ground lines, wires, guys, cables, conduits, transformers, and other distribution and transmission equipment, facilities, and appurtenances necessary, proper, or reasonably needed for transmission and distribution of electricity into, in, within, from, across, and through the City as now existing or as the said City limits may hereafter be extended to the extent the City is authorized to grant such right.

(3) SPS, its successors and assigns, are authorized to use said poles, lines, towers, wires, guys, conduits, transformers, and other distribution and transmission equipment, facilities, and appurtenances for transmission, distribution, delivery, and sale of electricity to the City and to the inhabitants of the City or person or persons, firms, or corporations wherever located for the use by such purchaser or purchasers for any purpose authorized by law for which electricity may be used or for any other purpose or use which is or may become normal customary in the retail electricity industry in Texas.

b. Term and Deregulation. The franchise granted to SPS shall be for a term of Ten (10) years from the 13th day of February 2007. The franchise rights and privileges shall be in full force and effect thirty (30) days from the approval of this Ordinance provided SPS has formally accepted this franchise.

c. Franchise Fee/Payment. As compensation and rental for the use of the streets, alleys, and public ways of the City in the conduct of its business under this franchise, SPS shall pay the City for the life of this franchise a sum of money equal to **five percent (5%)** of its gross receipts. The term "gross receipts" shall mean the total monies received by SPS from the sale of electric energy to its retail customers within the corporate limits of Bovina, Texas. A **two percent (2%)** franchise expense is currently embedded in the SPS system wide rates, but in future rate cases no amount of franchise expense will be in base rates and all franchise expenses will be surcharged to the customer's taking service in the city where the fee is paid. Absent a rate case removing all franchise fees from base rates, only amounts payable to the City under this Section in excess of **two percent (2%)** of gross receipts shall be surcharged to customers taking service within the City, until such time as all franchise fees being paid to all other cities in Texas served by SPS are being surcharged to the customers within those cities. If a final order is issued in SPS's next Texas rate case removing all franchise fees from base rates, all amounts payable to the City under this Section shall be surcharged to customers taking service with the City. The franchise payments shall be due and payable within thirty (30) days following the end of each calendar quarter in which the gross receipts were collected. All money due and payable to the City by SPS computed under the terms of the existing franchise shall be payable at the time that computation begins under this franchise. In other words, there shall be no gap in payments to the City between the termination of the existing franchise and the commencement of this franchise. Said quarterly payments above provided shall be exclusive of and in addition to ad valorem taxes. Any and all such payments made by SPS pursuant to this Section shall be credited on any amount imposed, levied, or assessed against SPS by the City, pursuant to ordinance or otherwise, at any time as a charge (whether designated as rental, tax, or otherwise) for the use by SPS of City's streets, alleys, and public ways.

d. Franchise Fee after Retail Competition. The franchise fee authorized herein shall form the basis on which any franchise fee is authorized and calculated according to state law after customer choice is authorized by the State of Texas in the region, which encompasses the City of

Bovina. If the Public Utility Regulatory Act, §33.008(b) or §39.402(b) are changed, which change adversely impacts the franchise fee revenue the City would receive, then SPS and the City agree, to the extent allowed by law, to renegotiate the franchise provision in the preceding Section so as to allow the City to receive the same revenues it would have received prior to such change in the law.

e. Pole Location.

(1) Within the streets or other public right-of-ways of the City, the location and route of all poles, stubs, guys, anchors, lines, conduits, underground duct lines, manholes, and cables placed and constructed and to be placed and constructed by SPS in the construction and maintenance of its electrical lighting and power system in, within, through, or under the streets, alleys, or other public rights-of-way of the City shall be subject to reasonable and proper regulation, control, and direction of the City, or of the City official to whom such duties have been or may be delegated.

(2) All poles, guys, or anchors erected by SPS shall be so set that they will not cause diversion of surface waters in any gutter or drain so as to cause damage to adjoining property, and so that the same will interfere as little as practicable with the ordinary travel on the streets, sidewalks, and other public rights-of-way of the City; the regulation and control herein reserved shall include, without limitation, the right of the City to require SPS, at SPS's expense, to relocate its poles, lines, or conduits so as to permit the following activities undertaken by the City on its behalf:

(a) The widening or straightening of any street, alley, or public right-of-way located within the City.

(b) The closing, opening, or relocation of any street, alley, or public right-of-way within the City.

(c) The location or relocation of any water or sewer lines within the City.

(d) The changing of grade of any street, alley, curb, or sidewalk within the City.

(e) The construction and maintenance of parks and other public improvements owned by the City of Bovina located within the City.

(3) In all cases where SPS is required to relocate, change the route of or the position of the poles, lines, or conduits, as a result of a request by the City, the City shall furnish an alternate route on which poles and lines of like construction design may be built, and provide thirty (30) days advance written notice to SPS specifying the new location, route, or position of the poles, lines, or conduits involved. SPS shall be entitled to be paid for its cost and expenses of any relocation, raising, or lowering of its wires, required by the City, pursuant to this ordinance, only if such expense or costs are reimbursable or payable to SPS or the City from any source including the State of Texas, the United States, or any government agency or subdivision of either, whether directly or indirectly. However, nothing herein shall impose any obligation on the City to pay such costs and expenses except to the extent it actually receives funds from another source including the United States, the State of Texas, or any government agency or subdivision of either, for the reimbursement or payment of same. The provisions of this Section shall not apply to improvements made by SPS on private easements purchased by SPS and recorded prior to any dedication of any street, alley, or public way. In this latter event, the City shall reimburse SPS its costs and expenses of relocating facilities.

f. Temporary Relocation. SPS, on written reasonable request of any responsible person, firm, corporation, or governmental authority, shall relocate, raise, lower its wires, where located on, in, or over the streets, alleys, and other public ways of the City, temporarily to permit construction work in the vicinity thereof, or to permit the moving of houses or other bulky structures. The expense of such temporary relocation, raising, or lowering of such wires shall be paid by the benefited party or parties, and SPS may require the payment in advance, being without obligation to remove, raise, or lower its wires until such payment shall be made; provided, however, that no such payment shall be required of the City except as provided in §4.100.e. SPS shall be given not less than seventy-two (72) hours prior written notice to arrange for such temporary wire changes.

g. Excavation of Sidewalks. If it becomes necessary in furnishing electricity as contemplated under this franchise, the City grants SPS the right and privilege to take up pavements and sidewalks, if any, in and upon said streets, alleys, and highways in said City for the purpose of making such excavation and installation as may be necessary; provided, however, that SPS shall not take up or excavate any pavement at any time without first securing the written permission of the City Manager or his designated representative, which permission will not be unreasonably withheld; and provided further, that all excavations and installations so made shall be performed in a reasonable manner as will cause the least inconvenience to the public, and SPS shall promptly restore or cause to be restored to as good condition as before working thereon all such pavements, sidewalks, streets, alleys, or highways excavated by it to the reasonable satisfaction of the City Manager or his designated representative.

h. Facilities Damage. In any facilities of the City shall be in any respect damaged or injured by SPS or any of its officers, agents, or employees in connection with the performance of work done under this Franchise Agreement, SPS shall pay for such damage. Conversely, if any of the facilities installed by SPS hereunder shall be in any respect damaged or injured by the City or any of its officers, agents, representative, or employees, in connection with the performance of any work or repairs that may be done upon the streets, avenues, alleys, and other public places of the City, the City shall pay for such damage.

i. City's Sovereignty.

(1) The City, by granting of the franchise, does not surrender or to any extent lose, waive, imperil, or lessen the lawful powers and rights or hereinafter vested in the City under Constitution and Statutes of the State of Texas and under the Charter of the City to regulate the rates of SPS; and SPS, by its acceptance of this franchise, agrees that all such lawful regulatory power and rights as the same may be from time to time vested in the City shall be in full force and effect and subject to the exercise thereof by the City at the City's discretion.

(2) Notwithstanding anything contained in this Ordinance to the contrary, all work done in connection with the construction, repair, maintenance, and operation of all facilities of SPS is subject to the continuing police power of the City; and SPS shall comply with all present and future laws, ordinances, and regulations, except when such compliance is in conflict with that authority specifically surrendered by the City herein.

j. Electric Service Provided. It shall be SPS's obligation hereunder to furnish efficient electrical service to meet standards of the industry for the area. SPS shall serve every eligible consumer in the franchise area that requests service, subject to lawful policies and rules of SPS regarding cost, customer deposits, return on investment, access, and other reasonable factors. SPS shall not discriminate against any person, corporation, firm, or association in the charge for such electrical current or in the service rendered under like circumstances. SPS shall nor directly or indirectly grant any discount or rebate or give things of value to circumvent the rate schedule as approved by the appropriate regulatory authority.

k. Nonexclusive. Nothing contained in this Ordinance shall be construed as conferring upon SPS any exclusive rights or privileges of any nature whatsoever.

l. City Use of SPS's Pole/Duct Space.

(1) In addition to the consideration set forth elsewhere in this Ordinance, SPS shall hereafter hold itself ready to furnish free of charge, subject to the use of the City, such pole space as may be reasonably required from time to time for the installation of City-owned street light equipment, traffic, police, and fire alarm conductors, and alarm or other necessary signal boxes, data transmission or telecommunication equipment (solely for the City's own use) provided that such space used by the City does not exceed the capacity of one cross-arm space on any one pole, and provided that such space is available on existing poles and has been requested three (3) days in advance in writing by the City Manager or his designated representative prior to installation of SPS facilities hereunder placed within any street, alley, or public way. The specific location of the street light equipment and police and fire alarm conductors and boxes on SPS's poles shall be determined by SPS, and will be allotted at the time specific applications for space are received from the City. Where a main underground ductline is hereafter constructed or installed between manholes by SPS, SPS shall, as a part of same, provide free space for the installation by the City of its traffic, police, or fire alarm cables, data transmission or telecommunication equipment (solely for the City's own use) on request in writing by the City

Manager or his designated representative prior to construction, one top duct having one capped off entry channel and one capped off exit channel between each two manholes, such entry and exit channels leaving the duct enclosure outside of, but near to, such manholes, and no cable or other equipment of the City shall enter SPS's manholes. SPS shall, prior to each addition by it to any duct now existing or hereafter constructed, notify the City Manager or his designated representative of the City of the nature and location of such intended addition; further, SPS shall, along with its application for a permit to open a street for the purpose of laying a new duct, provide the City Manager and the City's Engineer Office each with a set of plans showing the type, number, and location in the street, of the ducts to be constructed. City, prior to the original installation by it or its equipment in any top duct, shall notify SPS three (3) days in advance of the time and place it intends to make such entry and installation. All cables installed by the City in SPS ducts shall be of the non-metallic, sheathy type to prevent corrosive or electrolytic action between the City and SPS-owned cables. All City-owned conductors and cables, whether on poles or in ductlines, shall be constructed, maintained, and operated in such manner as to not interfere with or create a hazard in the operation of SPS's electrical transmission and distribution system. Further, all City-owned traffic, police, and fire alarm conductors and alarm boxes and any City circuits on SPS's poles and all cables installed by the City in ducts constructed by SPS, shall be installed in strict compliance with the applicable provisions of the National Electrical Safety Code and other applicable federal, state, and local codes.

(2) Provided further, that no part or portion of this Section shall ever be construed as requiring SPS to make any additional expenditures over and above its normal and ordinary cost, and if the City's requirements hereunder cause an additional cost or expense in enlarging, removing, adding to, or otherwise changing SPS's facilities, the City shall reimburse SPS for full amount of such costs. SPS shall not in any case be liable for damages or claims of damages to any person or persons arising from or growing out of the attachment of City's equipment, or arising from or growing out of construction, operation, or maintenance of such facilities. The City further agrees to indemnify and hold SPS harmless from any and all damages or claims for damages by reason of the construction, maintenance, or operation of the City's facilities as set forth in this Section.

m. Annual Receipts Report/Right to Audit. On request by the City Manager, SPS shall provide a statement, certified by a duly qualified officer of SPS, showing the gross receipts of SPS within the City (as defined above). For the purpose of determining the amount of the gross receipts of SPS at all times during the continuance of the rights herein granted, SPS shall keep at the disposal of and open to inspection by any auditor authorized and appointed by the City at all reasonable times, books of accounts and other record showing a full, true, complete, and accurate account of the gross receipts of SPS from its electric lighting and power sales for consumption within the corporate limits of the City for the prior three calendar years.

n. Indemnification. SPS shall indemnify and save the City harmless from all claims, demands, or causes of action brought against the City occasioned by or arising out of the construction, reconstruction, maintenance, or repair of SPS's electrical lighting and power system, or in any way growing out of the granting of this franchise either directly or indirectly; provided, however, that the provisions of this Section shall not be applicable to any claims, damages, actions, or causes of actions proximately resulting from the use by the City, its officers, agents, representative, or employees, of SPS's poles and ductlines for the installation, maintenance, or removal of the City's equipment, as provide in §4.100.1., or for which the City is otherwise liable as provided herein.

o. Authority. In granting this franchise, it is understood that the lawful power vested by law in the City to require all persons or corporations to discharge the duties and undertaking for the performance of which this franchise was made, is reserved; this grant is made subject to all rights, powers, and authorities either of regulation or otherwise reserved to the City by its Charter or by the general laws of the State.

p. Assignment/Transfer of Franchise.

(1) The rights, franchise and privileges hereby granted shall not be transferred or assigned by SPS except with the consent of the City expressed by Ordinance passed by City Council; provided, however, SPS may mortgage or pledge its rights hereunder for security or obligations owing by SPS; and provided further, that a transfer could be made in a merger,

consolidation, or reorganization proceeding to which SPS is a party or to a subsidiary corporation of affiliate corporation of SPS or wherein SPS sells its physical assets. It is specifically recognized that under the Public Utility Regulation Act, Chapter 39 Restructuring of Electric Utility Industry, it is anticipated that at some date in the future SPS will unbundled into a power generation company, a retail electric provider, and a transmission and distribution utility. AT the time of such unbundling to comply with retail electric deregulation, the franchise granted will go with the distribution utility, and the franchise fee thereafter will be calculated as provided in §4.100.c. of this Ordinance.

(2) In the event of contemplated transfer of this franchise, under the terms of this section permitting transfer without consent of the City, SPS shall notify the City of the contemplated transfer by written notice delivered to the City Secretary not less than sixty (60) days prior to accomplishment of any merger, consolidation, or reorganization proceeding or transfer of its entire physical assets; and will provide the City an opportunity to confer with the proposed transferee concerning proper acceptance of the terms of this franchise.

(3) Prior to exercising any rights hereunder, any purchaser or transferee of SPS shall file with the City Manager a written acceptance of this franchise setting forth an agreement to be bound by all terms and provisions hereof.

q. Tree Trimming. To the extent that the City has authority to do so, it gives to SPS, during the life of this franchise, the right, license, privilege, and permission to trim trees upon and overhanging the streets, alleys, sidewalks, and public places of the City, so as to prevent the branches of such trees from coming in contact with the wires or other equipment of SPS. SPS agrees that it will fully protect and indemnify the City from any and all claims, demands, actions, causes of actions, damages, and expenses arising because of such trimming by SPS under provisions of this Section.

r. Notice of Default. The franchise rights and privileges hereinabove granted to SPS, its successors and assigns are and shall be at all times, during the term and life of this franchise, contingent upon the faithful and punctual performance of and compliance with all acts, requirements and provisions of this Ordinance, and any amendment hereof, by SPS, its officers, agents, and employees on its part to be performed, complied with, and abided by, and if at any time SPS shall refuse or fail to keep, perform with, and abide by all and singular the acts, requirements, and provisions of this Ordinance, or any amendment, within sixty (60) days from receipt of written notice from the City Manager acting by Order of the City Council setting forth in detail the facts constituting default of SPS and what is required to cure such default; and upon continued failure of SPS to keep, perform, comply with, and abide by such acts, requirements, and provisions of this Ordinance or any amendment or failure to cure the default set forth in such written notice, the City may terminate, at its option, this franchise and all privileges and rights herein granted to said SPS. The notice herein mentioned shall be sufficient, if given to the Director of Community Services for SPS, located in Amarillo, Texas.

s. Removal of Dangerous Objects. The City shall have the power at any time to require SPS to remove and abate at its own expense any installation or structure that is dangerous to life or property, and in case SPS, after reasonable notice, fails to act, the City shall have the power using reasonable means and methods to remove or abate the same at expense of SPS, all without compensation or liability for damages to SPS.

t. Severability. If any provision, section, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, void, or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance shall not be affected thereby.

u. Prior Franchise Repealed. This franchise replaces all former franchise ordinance granted to SPS or its predecessors, by the City which are hereby repealed, which repeal is effective as of the time the franchise herein granted takes effect. There is specifically and particularly repealed, effective as of that time, which certain Ordinance No. 2-1-87 passed by the City of Bovina, granting to Southwestern Public Service Company, its successors, and assigns, a franchise for a period of twenty (20) years.

§ 5.00. Open Records

§ 5.10. Costs: The costs of producing and copying records subject to the Public Information Act (known as the Open Records Act) to the requester shall be as follows:

a. For copy request of fifty (50) or less: Normal copy charge is \$0.25 per copy. Each side of a page that has a printed image is considered a page.

b. For copy request over fifty (50):

(1). The hourly (one hour minimum) rate of the person(s) doing the work times the time required to do the work (the time shall be recorded in 15 minute segments where any 15 minute fraction is rounded up to the next 15 minute segment) as manhour equivalents.

(2). Equipment or overhead cost will not be made for requests of 50 pages or fewer of standard paper records. For over 50 pages, the cost will be computed at 20% of the charge to cover any personnel costs associated with a request.

(3). A Computer resource charge may be added, and this charge is figured at \$4.50 per man-hour of computer time.

c. Additional cost may be added to recover the cost of materials, postage and handling, or any special computer related supplies.

§ 10.00. Arson

§ 10.10. Arson Reward

a. In order to secure a credit of 2% in the OSHI for an Arson Award Ordinance, it is necessary for the following:

Arson Reward

The City of Bovina, Texas, hereby offers a reward of One Hundred (\$100) for the arrest and conviction of any person or persons found guilty of committing the crime of Arson within the corporate limits of the City of Bovina, Texas. This is a standing offer, and shall be paid out of the General Fund of the City of Bovina, Texas.

Attest:

Mayor, City of Bovina

City Secretary

b. Placards eight (8) inches by twelve (12) inches in size showing the above reward offered must be placed in wooden frames under glass inside at least six different public buildings. A certified copy of the ordinance, a copy of one of the placards and a list of the buildings where the placards have been posted as outlined above must be furnished to the Texas Fire Insurance Department, Austin, Texas.

§ 10.20. Credit. Upon receipt of this information, if found to be in order, immediate steps can be taken to allow the credit.

§ 20.00. Animal Control.

§ 20.10. Animal Regulations:

- a. Enforcement of this section shall be the responsibility of the Animal Control Officer and/or the Police Department.
- b. The Animal Control Officer and/or Police Department shall have the authority to issue citations for any violation of this section.
- c. It shall be unlawful for any person to interfere with the Animal Control Officer in the performance of his duties.
- d. It shall be unlawful for any dog or other animal possessed, kept, or harbored to run at large.
- e. No owner shall possess, harbor, or keep more than four(4) or more dogs or cats over the age of four (4) months of age or ten (10) or more dogs or cats under the age of four (4) months are kept for breeding or boarding purposes, except Veterinary facilities.
- f. The owner shall confine fierce, dangerous, or vicious dogs within a building or secure enclosure (completely enclosed and locked by padlock or key) and not take such dog out of such enclosure unless dog is securely muzzled.
- g. Every female dog or cat in season shall be confined in a building or a secure enclosure in such a manner that another dog or cat cannot come in contact with it except for controlled breeding purposes.
- h. No owner shall allow his dog or cat to disturb another citizen of Bovina. This includes all actions resulting in noise, smell, or vibration.
- i. The Animal Control Officer is authorized to capture and/or impound an animal in violation with this section.

§ 20.20. Animal Registration and Vaccination Required.

- a. Vaccination of all dogs and cats, over the age of four (4) months, is required. They must be vaccinated annually for rabies with an anti-rabies vaccine approved by the State Health Department and administered by a veterinarian licensed by the State of Texas. A metal certificate of vaccination, provided by the veterinarian, must be securely attached to a collar or harness that must be worn by the dog or cat at all times when out of doors.
- b. Registration procedures and requirements. No owner shall have within the City any dog or cat over four (4) months old unless such dog or cat is currently registered with Animal Control. A current metal registration certificate, issued by Animal Control, must be affixed to the collar or harness and must be worn by the dog or cat when out of doors. No dog or cat shall be registered until it has a current rabies vaccination. Registration must be obtained within thirty (30) days of vaccination. This registration is only valid for the animal to which it was originally issued. If there is a change in ownership, the registration may be transferred at no additional charge.
- c. Fee-exempt registration may be issued for the following:
 - (1) Police or Sheriff's Department dogs (Not privately owned)
 - (2) Dogs trained to assist those with physical impairments.
- d. Denial of Registration:
 - (1) The Animal Control Officer may refuse to register any dog and/or cat, or revoke a registration issued to any person who has been convicted in court of the State of Texas, for any of the following:
 - (a) Cruelty to Animals as defined in the Texas Penal Code for inhumane treatment or negligence to an animal.
 - (b) Four (4) or more separate and distinct violations of the Animal Control Ordinance of a municipality in the State of Texas within a twelve (12) month period.
 - (2) Any person denied such a registration may appeal the refusal to the Board of Adjustment.
- e. Guard Dogs, special provision: Every person having care or custody of a dog which has received guard training, must register such dog with the Animal Control Officer. It shall be unlawful for any person having ownership, occupancy, or control of any property in the City to permit or hire a guard dog to guard such property without such dog having first been registered

with the Animal Control Officer pursuant to this paragraph. Any dog which has received guard dog training may be destroyed, if necessary if such dog is running at large. The owner, keeper, or person in charge of a guard dog shall be subject to the other provisions of this section. Registration tags identifying the animal as a guard dog must be worn at all times, and the animal must be securely muzzled and leashed when not in covered confinement or fenced while in actual performance of duties.

§ 20.30. Impoundment.

a. Animals subject to impoundment are as follows:

(1) Cats or dogs not exhibiting evidence of being vaccinated or registered.

(2) Any animal running at large.

(3) Any animal treated in a manner determined by the Animal Control Officer to be cruel or inhumane.

(4) Any animal that has bitten, scratched, or viciously attacked a person, or needs to be placed under observation for rabies, as determined by the Animal Control Officer.

(5) Any animal in violation of this section.

b. Right of Property Owner to Confine: If any animal named in this section is found on the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until the Animal Control Officer is notified, and the animal is impounded.

c. Reclaiming of Impounded Animals: The owner of the animal may resume possession of the animal impounded upon payment of any and all impound fees, handling fees, registration fees, vaccination charges, fines, and any other appropriate costs incurred by the Animal Control for the welfare of the animal, and upon compliance with all provisions of this section.

d. Notification of Owner by Animal Control: Reasonable effort shall be made by Animal Control to contact the owner of any animal impounded which is wearing current registration and/or vaccination tags; however final responsibility for location of an animal is that of the animal's owner.

e. Reclaiming Animals Impounded on the Grounds of Suspicion of Cruelty or Inhumane Treatment: Deposition of animals impounded on grounds of suspicion of cruel or inhumane treatment shall be by the court of jurisdiction.

f. Reclaiming Animals Under Rabies Quarantine: If any animal is being held under quarantine or observation for rabies, the owner shall not be entitled to possession until it has been released from such quarantine and satisfied the condition set forth in § 20.30.c.

g. Designation of Place of Impoundment: The City Manager shall select and establish a place for impoundment of all animals impounded under any provision of this section.

h. Disposition of Unreclaimed Animals: Any animal except vicious, wild, or unvaccinated bite case animals, not reclaimed by the owners, may be humanely destroyed by Animal Control after being held for five (5) days.

i. Disposition of Impounded Vicious or Wild Animals: Any vicious animal impounded unless there is reason to believe such animal has an owner, may be immediately disposed of as deemed appropriate by Animal Control. Any impounded wild, unless such animal is an endangered species, may be immediately disposed of in a manner deemed appropriate by the State Statute. Wild animals that are considered endangered species, will be immediately reported to and turned over to the Texas Department of Parks and Wildlife for disposition.

j. Disposition of Nursing Animals: Any nursing baby animals impounded without the mother or where the mother cannot or will not provide care, may be immediately euthanized by Animal Control, if no other care is possible or available, to prevent further suffering of such baby animals, but this must be a measure of last resort.

k. Adoption of Impounded Animals: Any impounded animal not wearing current vaccination or identification tags and the owner is not know may be given up for adoption after seventy-two (72) hours, except those under quarantine. All other animals may be given up for adoption after five (5) days and all vaccinations and registration requirements and all cost are satisfied.

l. Disposition of Animal Upon Direction of Owner: An owner who no longer wants responsibility for an animal may sign a written waiver supplied by the Animal Control, allowing

capture, impoundment, adoption, and/or euthanasia in a humane manner at the cost of an impound fee. All vaccination, registration, and handling fee will be paid by the new owner adopting the animal. If the animal has bitten another animal or human, this animal shall be held for ten (10) days of quarantine except where laboratory examination is provided for.

m. Disposition of Injured or Ill Animals: Any impounded animal that appears to be suffering from extreme injury or illness may be euthanized or given to a non-profit humane organization for the purpose of veterinary medical care, as determined by the Animal Control.

§ 20.40. Impound Fees.

- a. The first and second incident impound fees are set by City.
- b. The third incident of impound for the same animal is euthanasia.

§ 20.50. Animal Quarantine.

a. Authority to Quarantine: The Animal Control Officer shall have the authority to order quarantine of animals responsible for biting incidents or suspected of having zoonotic disease considered to be a hazard to the human or animal population.

b. Animals Subject to Quarantine; Conduct of Quarantine: Every animal that bites a human or attacks another animal in an unnatural manner or has rabies or suspected of having rabies or any zoonotic disease, shall be immediately confined by the owner, who shall immediately notify Animal Control of the place and such reasons for the confining. The owner shall not permit such animal to come into contact with any other person or animal. The owner shall surrender possession of such animal to Animal Control on demand for quarantine, which shall be at the animal shelter or veterinary hospital, or any other method of confinement approved by the Animal Control. The quarantine shall be not less than ten (10) days and shall be under the supervision of a licensed veterinarian, who shall submit to Animal Control reports on the quarantined animal's physical condition and prognosis. A release from quarantine may be issued by the veterinarian if no signs of rabies or other diseases have been observed during the quarantine period.

c. Violation of Quarantine; Cause for Seizure and Impoundment: Violation of quarantine by any person shall be just cause for seizure and impoundment of the quarantined animal by Animal Control. It shall be unlawful for any person to interrupt the observation period of any animal for any reason.

d. Investigation of Animal Bite Reports; Killing of Biting Animals Prohibited: All animal bite reports shall be investigated by Animal Control. Without the permission of Animal Control, it shall be unlawful for any person to kill or remove from the City any animal that has bitten any person or other animal, or that has been placed in quarantine, except when it is necessary to protect the life of any person or other animal.

e. Authority to Direct Disposition of Suspected Rabid Animals: The Animal Control Officer or anyone designated by the City Manager, shall direct the disposition of any animal suspected of being rabid or having any zoonotic disease considered to be hazard to any other animal or human being.

f. Surrender of Carcasses of Dead Animals Suspected of Having Rabies: The carcasses of any dead animal exposed to rabies or suspected of exposure to rabies shall, upon demand, be surrendered to Animal Control.

g. Any Animal Exposed or Suspected of Exposure to Rabies: Every animal exposed or suspected of exposure to rabies shall be immediately confined by the owner who shall notify Animal Control. The owner shall not permit such animal to come into contact with any animal or person. Any animal exposed to rabies shall be handled in the manner directed by veterinary authority.

h. No person shall fail to or refuse to surrender an animal, as required herein for rabies control, for supervised quarantine or humane destruction as may be directed by veterinary authority, Animal Control, or the Bovina Police Department.

i. Any person having possession of or responsibility for any quarantined animal shall immediately notify Animal Control if such animal escapes or becomes or appears sick or dies and in the case of death of the animal while under quarantine, shall immediately surrender the dead animal to Animal Control for diagnostic purposes.

§ 20.60. Sale or Giving Away, Changing Colors of Certain Animals, Keeping Wild Animals, Permitting Wild or Vicious Animals to Run at Large.

a. It shall be unlawful for any person to sell, offer for sale, barter, or give away as toys, premiums, or novelties, baby chickens or ducks or other fowl under three (3) weeks old or rabbits under two (2) months old, unless the manner or method of display is first approved by the Animal Control Officer.

b. It shall be unlawful to color, dye, stain, or otherwise change the natural color of any animal, to possess for the purpose of sale, or to be given away any of the above mentioned animals which have been so colored.

c. It shall be unlawful to keep any wild animals, deemed dangerous by the Animal Control Officer or the Police Department, inside the City Limits of Bovina, Texas.

d. It shall be unlawful to release or allow to run at large, any wild animal that has known dangerous or vicious tendencies.

§ 20.70. Vicious Animals.

a. Any vicious animal found running at large may be destroyed by any Peace Officer or Animal Control Officer in the interest of public safety.

b. The Animal Control Officer and/or an officer of the Bovina Police Department may order any owner or person having responsibility, control, care, or custody of any animal deemed vicious to lock up or have the City impound the animal. The animal must be impounded and removed from the public within twenty-four (24) hours, immediately if the safety of the public so directs, even if an appeal is or will be initiated. The written appeal must be initiated within ten (10) days of the order to remove said animal and must be sent to the Municipal Judge for adjudication.

c. If the person having responsibility, control, care, or custody of any animal deemed vicious fails to remove such animal, as provided herein, such animal may be impounded and/ or destroyed and the said person fined as provided herein.

d. The owner or person responsibility, control, care, or custody of any animal deemed vicious must report the disposition and relocation of such animal to the Animal Control Officer in writing within ten (10) days after notification for removal of such an animal.

e. The Animal Control Officer shall be authorized to obtain a search and seizure warrant if there is reason to believe that an animal ordered removed from the City for being vicious has not been removed. Such warrant may also be obtained if the owner of such animal has been involved in a bite incident or is suspected of having rabies or any other zoonotic disease fails to surrender such animal for quarantine purposes or for humane destruction.

§ 20.75. Seizure of a Dog Causing Death of or Serious Bodily Injury to a Person.

a. The Municipal Judge shall order animal control authority to seize a dog and shall issue a warrant authorizing the seizure:

(1) on the sworn complaint of any person, that the dog has caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person; and

(2) on showing of probable cause to believe that the dog caused the death of or serious bodily injury to the person as stated in the complaint.

b. The animal control authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in a secure and humane condition until the court orders the disposition of the dog.

c. The court shall set a time for a hearing to determine whether the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The hearing must be held not later than the 10th day after the date on which the warrant is issued.

(1) The court shall give written notice of the time and place of the hearing to:

(a) the owner of the dog or the person from whom the dog was seized;

and

(b) the person who made the complaint.

(2) Any interested party is entitled to present evidence at the hearing.

(3) The court shall order the dog destroyed if the court finds that the dog caused the death of a person by attacking, biting, or mauling the person. If the finding is not made, the court shall order the dog released to:

- (a) its owner;
- (b) the person from whom the dog was seized; or
- (c) any other person authorized to take possession of the dog.

(4) The court may order the dog destroyed if the court finds that the dog caused serious bodily injury to a person by attacking, biting, or mauling the person. If the finding is not made, the court shall order the dog released to:

- (a) its owner;
- (b) the person from whom the dog was seized; or
- (c) any other person authorized to take possession of the dog.

(5) The court may not order the dog destroyed if the court finds that the dog caused the serious bodily harm/injury to a person by attacking, biting, or mauling the person and:

(a) the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(b) the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own; and the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(c) the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;

(d) the dog was defending a person from assault or person's property from damage or theft by the injured person; or

(e) the injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was kept, and the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.

(6) Except as noted above, this ordinance applies to any dog that causes a person's death or serious injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident occurred.

§ 20.76. Dogs That Attack Domestic Animals

a. A dog that is attacking, is about to attack, or has recently attacked any domestic animal or fowl may be killed by any person witnessing or having knowledge of the attack.

b. A person who kills a dog as provided by this section is not liable for damages to the owner of the dog.

c. The owner of the attacking dog, as are all owners of their dog(s), is responsible for all damages done to people or property attacked by said dog.

d. The owner of a dog known to have attacked any domestic animal or fowl shall kill the dog, or secure the dog in a secure enclosure, or remove the dog from the City within twenty-four (24) hours. The City police department or animal control may enter the premises of the owner to enforce this section after twenty-four (24) hours, if the owner fails to do so.

§ 20.77. Requirements for Owner(s) of a Dangerous Dog

a. Not later than twenty-four (24) hours after being notified that the person is the owner of a dangerous dog, the person shall secure the dog away from the public by either removing the dog from the City, surrendering the dog to the animal control, or securing the dog in a secure enclosure.

b. Not later than seventy-two (72) hours after being notified that the person is the owner of a dangerous dog, the person shall, in order to keep the dangerous dog within the City:

(1) notify animal control of the location of the dog, within the City, and keep the City informed of the location of the dog at all times;

(2) restrain the dangerous dog at all times on a leash, of sufficient quality and material to control the dog (not home-made), in the immediate control of the owner;

(3) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily harm/injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority.

c. The owner of a dangerous dog who does not comply with this ordinance shall deliver/surrender the dog to animal control authority not later than seventy-two (72) hours after notification of owning a dangerous dog. The animal control shall hold the dog until a determination has been made by the municipal court.

d. The owner shall pay any costs assessed related to the seizure or destruction of the dog.

§ 20.80. Pet and Animal Care Guidelines.

a. It shall be unlawful to abuse, hurt, or maliciously take advantage of any animal. Animal, whether pets or livestock, deserve proper care and treatment. No owner shall fail to provide his animal(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed, and humane care and treatment. Animals shall not be chained or restricted by chains from normal movements. Animals may be on a leash or tied temporarily; temporary being defined as a definite short period of time such as twenty-four (24) hours.

b. No person shall beat, strike, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans. Rodeo events that are supervised and sanctioned are permitted.

c. No owner shall abandon any animal. Any animal left without food, water, or shelter for more than three (3) days shall be considered abandoned. Animal Control shall take any abandoned animal into protective custody until the owners can be located and/or prosecuted. The abandoned animal may be considered for adoption in accordance with this section.

d. Any person who willfully or accidentally, as the operator of any vehicle, shall stop at once and shall immediately render aide and report such incident and injury or death of the animal to the Bovina Police Department or other appropriate law enforcement agency.

§ 20.90. Sanitary Conditions Required: The owner or persons in possession of animals shall keep yards, pens, and enclosures in which animals are confined in such a manner so as not to give off odors (offensive to persons of ordinary sensibilities residing in the vicinity), breed or attract flies, mosquitoes, or other noxious insects or rodents or in any manner endanger the public health or safety, or create a public nuisance.

§ 20.100. Livestock: It shall be unlawful to keep any type of livestock including swine, hogs, pigs, sheep, goats, donkeys, cows, or cattle, within the City Limits of the City of Bovina, without a specific exemption for those with five (5) acres or more.

§ 20.110. Fowl: It shall be unlawful to keep any type of fowl, including chickens, pigeons, ducks, turkeys, geese, pheasant, or quail within the City Limits of Bovina. There is a seasonal exemption for wild fowl raised for release.

§ 30.00. Cemetery.

a. The Bovina Cemetery shall be involuntarily annexed, effective upon initial passage of the City Code and in accordance with §9.33 of the Texas Municipal Law and Procedures Manual, and maintained by the City of Bovina.

b. The Bovina Cemetery shall be maintained as a long term care cemetery with a Cemetery Fund of at least two CDs, not less than twenty-five thousand dollars (\$25,000.00) each, and the interest derived from these CDs is to be used for maintenance of the cemetery. Money received from the sale of lots and plots (a lot being space for four adult burials and a plot being space for one adult burial) shall be placed in these CDs.

(1) The Cemetery Fund is responsible for the expenses of water, maintenance, and labor for the upkeep.

(2) Effective on 1 October 2002 or upon passage of this Code, the cost of a burial plot will be two hundred dollars (\$200.00) and a burial lot, four (4) adjoining plots, will be eight hundred dollars (\$800.00). All requirements for cemetery dues will stop and a system of cemetery donations will be established.

(3) Sale of burial spaces will require a minimum of twenty-five percent (25%) down payment with a monthly payment of not less than twenty-five dollars (\$25.00) per month on each space. Spaces must be paid in full at time of internment.

c. Rules Regarding the Cemetery:

(1) Only one body may be interred in each space; exceptions may be given in the case of cremation and/or donation of body to medical science with a desire to place a monument.

(2) The City of Bovina does not open or close a grave.

(a) All arrangements with funeral directors are the responsibility of the burial party.

(b) The City is responsible for marking the grave site.

(c) The burial party is responsible for arrangements and costs of opening and closing of the grave.

(d) The burial party is responsible for arrangements and costs of the marker. A Permit to erect a grave site marker/memorial shall be obtained from the City Secretary prior to setting of the marker; subject matter shall be subject to approval by the Bovina Cemetery Board.

(e) The minimum standard for burial containers in the Bovina Cemetery shall be a concrete box.

(3) Everything placed in the ground must be at least eighteen (18) inches below the ground surface.

(4) No fences and no enclosures other than concrete, granite, or marble four (4) to six (6) inches in height.

(5) All grave markers shall be of natural granite, marble, or bronze. Sections of the cemetery may be set aside for above ground markers, flush with the ground markers, and/or vaults.

(6) All lots are sold for no other purpose than the burial of the human dead or human memorial.

(7) Flowers:

(a) No more than two (2) bouquets of flowers may be placed in vases on a grave. One bouquet on each side of the head stone or marker or a wreath or a basket of flowers, but never more than two (2) floral arrangements at one time.

(b) Potted plants are never allowed and at no time will planted plants be allowed. NO PLANTING OF SHRUBBERY OR FLOWER BEDS WILL BE PERMITTED.

(c) Artificial flowers are allowed but are subject to removal during maintenance, watering, grass cutting, or other times.

(8) The cemetery has the authority to remove any and/or all floral designs, flowers, decorations, etc. from the cemetery when in the judgment of the management, that they become unsightly, hinder maintenance, and/or do not conform to the standards of this ordinance.

d. The Bovina Cemetery shall mark off the unknown graves of the historical XIT graves in such a manner as to memorialize and honor the graves by:

- (1) Erecting a flag pole to fly the Texas flag.
- (2) Erecting a fences around the graves as a whole.
- (3) Erecting any manner of memorial to commemorate the site in such as manner as the City Council may direct with funds from the sale of memorial paving stone, bricks, or any manner of appropriate funding.

§ 35.00 Community Service

§ 35.10. Community service is a privilege and not a right.

§ 35.20. All community service ordered by the Bovina Municipal Court shall be conducted and supervised by a person appointed by the Municipal Judge.

a. Persons assessed community service will be assigned in accordance with State Law through a form, petition, or hearing where financial hardship must be demonstrated and documented.

(1) The Municipal Judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service. A defendant may, at any time, discharge an obligation to perform community service by paying the fines and costs assessed.

(2) The request for community service is not sufficient by itself. If evidence is available or apparent that persons have funds at their discretion, then community service will not be awarded. If it is a choice between driving a vehicle for pleasure or paying the fine; park the car and pay the fine. The defendant requesting community service must demonstrate or give evidence supporting the financial hardship created by the ordered payment of fines or costs.

(3) A defendant is eligible for community service only once in any twelve (12) month period.

b. Community service will be credited at minimum wage.

c. All community service will be conducted between the hours of 0800 (8 am) and finishing at 1700 (5 pm) on Monday through Friday, with one hour off for lunch. Under special circumstances with supervision work may be coordinated outside for these hours. Community service is not to exceed sixteen (16) hours per week unless it is determined that working more than sixteen (16) hours per week does not create a hardship on the defendant or the defendant's dependents. No deviation from this schedule is authorized. Failure to show up on time at 8 am or after lunch at 1 pm or leaving early for any reason will cause the cessation of continuance of community service.

d. All defendants, while performing community service, shall wear, for safety reasons, jumpsuits or vest provided by the Court.

e. Failure to comply with community service in a timely manner will forfeit the community service option, and the remainder of the amount owed will be reported to Omnibase or DPS through DIC 81. If a defendant fails to perform community service as ordered by the court, the court may hold the child in contempt and assess a fine not to exceed \$500 or order the Department of Public Safety to suspend or deny issuance of a driver's license of a juvenile, until the juvenile fully complies.

§ 35.30. Community service for the Bovina Municipal Court will be conducted on City projects and City works only, such as washing city vehicles, picking up trash, or Public Works projects. Any entity other than the City must have the prior approval of the community city manager.

§ 35.40. The Municipal Court Judge shall make monthly reports, as necessary, to the City Manager for review by the City Council.

§ 40.00. Emergency Preparedness.

a. The City Manager shall develop and keep current a workable Emergency Preparedness Plan, as an addition to and for the City, that may be inserted into the Parmer County's Plan:

- (1) such that the City of Bovina may be substituted for Parmer County;
- (2) such that City Council may be substituted for Commissioner's Court;
- (3) such that the City Manager may be substituted for the County Judge

b. Pursuant to the provisions of the following:

Federal Civil Defense Act of 1950, PL 81-920

The Disaster Relief Act of 1974, PL 93-288 as amended

Robert T. Stafford Disaster Relief and Emergency Assistance Act, PL 100-707

Emergency Management Assistance, Code of Federal Regulations, Title 44

Super Fund Amendments and Reauthorization Act of 1986; Title III: The

Emergency Planning and Community Right To Know

The Texas Disaster Act of 1975, 64th Legislature, Article 6889-7, Vernon's Texas Civil Statutes as amended

Executive Order of the Governor

Attorney General Opinion MW-140

Texas Hazardous Substance Spill Prevention and Control Act, Chapter 26, Subchapter G, Texas Water Code

State Solid Waste Disposal Act, Texas Civil Statutes Article 4477-7

c. This ordinance includes the attached Sections:

Organization

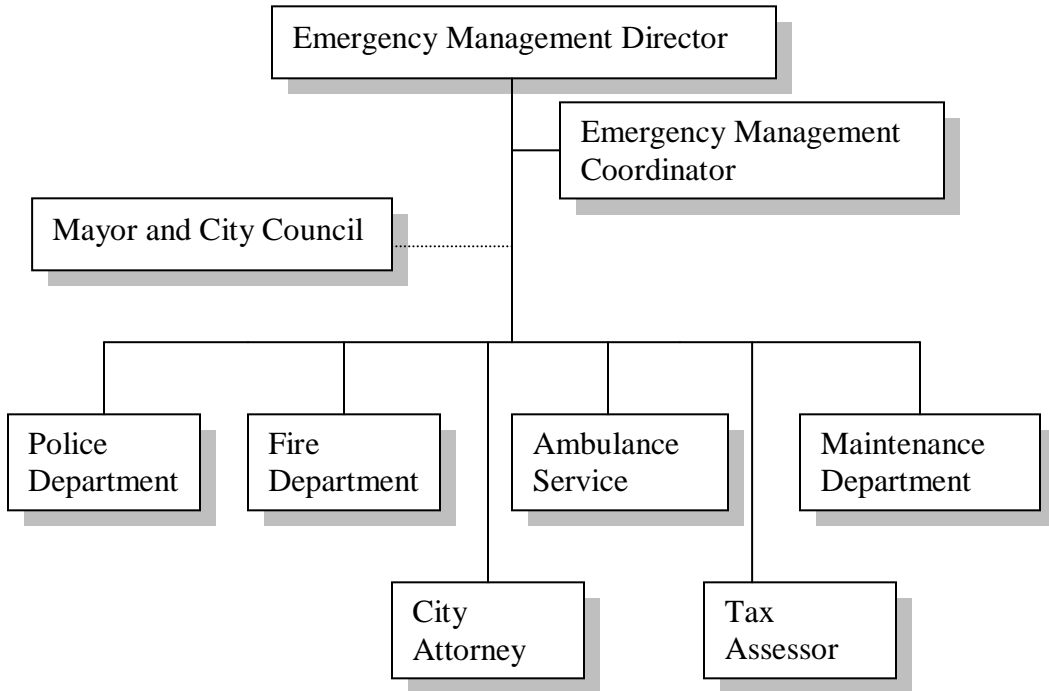
Responsibilities

Annex Assignments

Responsibilities

Emergency Recall

§ 40.10.. ORGANIZATION



§ 40.20. RESPONSIBILITIES

	EOC Activation	EOC Control	Warning	Communication	Damage Assessment	Tornado	Fire	Health and Medical	Law Enforcement	Public Information	Utilities/Public Works	NBC/Hazmat	Rescue	Shelter	Legal
City Manager	P	C	S	C	C	C	C	C	C	S	S	C			
Chief of Police	C	P	S	P	S	P			P					S	C
Maintenance Chief		S			S	S	S	S			P	S	C	S	
Fire Chief		S	S		S	S	P	S				P	P		
Chief of EMS		S				S	S	P				S	S		
Mayor	S	S								P				C	S
City Council		S								S	S			P	S
City Attorney		S							S	S					P
Tax Assessor		S			P										

P=Primary Responsibility
 S=Support
 C=Coordination

§ 40.30. Annex Assignment

Annex as per Parmer County Emergency Management Plan:

Annex	Assigned To:
Annex A: Warning	Chief of Police
Annex B: Communications	Chief of Police
Annex C: Shelter	City Council
Annex D: NBC	Fire Chief
Annex E: Evacuation	Chief of Police
Annex F: Fire and Rescue	Fire Chief/Chief of EMS
Annex G: Law Enforcement	Chief of Police
Annex H: Health and Medical	Chief of EMS
Annex I: Emergency Public Information	Mayor
Annex J: Damage Assessment	Tax Assessor
Annex K: Public Works, Engineering	Superintendent of Public Works
Annex L: Utilities	Superintendent of Public Works
Annex M: Resource Management	TBD
Annex N: EOC/Direction and Control	City Manager/ Chief of Police
Annex O: Human Services	TBD
Annex P: Hazard Mitigation	TBD
Annex Q: Hazardous Materials Response	Fire Chief
Annex R: Rescue	Fire Chief
Annex S: Transportation	TBD
Annex T: Training	City Manager
Annex U: Legal	City Attorney

§ 40.40. Responsibilities

1. Warning – Chief of Police
 - a. Disseminate emergency public information as requested.
 - b. Receive and disseminate warning information to the public and key city officials.
2. Communications – Chief of Police
 - Establish and maintain emergency communications.
 - Coordinate use of all public and private communication systems necessary within the EOC during emergencies.
3. EOC/Direction and Control – City Manager
 - Direct, operate, and control local operating forces.
 - Maintain contact with support, neighboring, and county EOCs.
 - Assign personnel and duties by title to operate the EOC.
 - Conduct training exercises for the EOC.
4. Shelter – City Council
 - Coordinate community assets to provide for emergency shelter as needed.
5. NBC – Fire Chief
 - Establish and maintain NBC monitoring and decontaminations assets.
 - Plan, secure, and initiate training of personnel.
 - Provide the necessary reports as required.
6. Evacuation – Chief of Police/City Manager
 - Define responsibilities of city and private sector groups.
 - Identify high hazard areas and number of evacuees.
 - Coordinate evacuation planning.
7. Fire – Fire Chief
 - Prevention, suppression, and inspection.
 - HAZMAT
8. Law Enforcement – Chief of Police
 - Law enforcement, traffic control, and weather reconnaissance.
9. Health and Medical – Chief of EMS
 - Coordinate planning and patient loading efforts of EMS.
 - Coordinate triage, first aid, and EMS activities.
10. Emergency Public Information – Mayor/City Manager
 - Conduct on-going hazard awareness and public education programs.
 - Compile and prepare emergency information for public in case of an emergency.
 - Handle media events.
11. Damage Assessment – Tax Assessor
 - Establish and conduct the damage assessment team.
 - Develop systems for reporting and compiling data.
12. Public Works – Superintendent of Public Works
 - Barricading hazardous areas.
 - Restoration of streets and utilities.
 - Debris removal.
 - Condemnation of unsafe buildings and structures.
 - Direct temporary repairs.
13. Utilities – Superintendent of Public Works
 - Restoration of city utilities.
14. Resource Management – TBD
 - Establish procedures for temporary work force and manpower reserve.
15. Human Services – TBD
 - Identify emergency food, clothing, shelter, and medical supplies.
 - Coordinate special care requirements for elderly, children, and handicapped needs.
16. Transportation -
 - Identify local transportation resources.
 - Coordinate deployment of transportation assets.
 - Maintain a reserve pool of drivers, maintenance personnel, parts, and tools.

17. Legal – City Attorney
Advise, review, and prepare/recommend legislation to implement the emergency powers required.
18. Rescue – Fire Chief
Coordinate search and rescue operations.
Maintain a manpower pool for rescue activities.
19. Hazard Mitigation – TBD
Management of the hazard mitigation program.

§ 40.50. Emergency Recall

Emergency recall may be initiated and conducted from the EOD utilizing the recall procedures posted and maintained by the Chief of Police. All current radio frequencies, pagers, and telephone numbers will be maintained in a central location.

§ 50.00. Junk and/or Abandoned Vehicles.

50.10 Declaration of junked vehicle to be a public nuisance. A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

- a. Is detrimental to the safety and welfare of the public;
- b. Tends to reduce the value of private property;
- c. Invites vandalism;
- d. Creates a fire hazard;
- e. Is an attractive nuisance creating a hazard to the health and safety of minors;
- f. Produces urban blight adverse to the maintenance and continuing development of municipalities; and
- g. Is a public nuisance.
- h. Does not have a current Texas registration sticker.

50.20 Offense

- a. A person commits an offense if the person maintains a public nuisance as described above.
- b. An offense under this article is a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00). Each day a violation is permitted to exist shall constitute a separate offense.
- c. Upon conviction, the court shall order abatement and removal of the nuisance within ten (10) calendar days of conviction.
 - (1) The person convicted shall be responsible for the removal and abatement as provided here in section 50 and shall provide verification of the abatement and removal within fourteen (14) calendar days of conviction.
 - (2) Should the convicted person fail to remove the nuisance within the time allowed, the city can remove and abate the nuisance without further notice to any party and shall recover all costs for the removal and abatement in the manner provided in this article.

50.30 Authority to abate nuisance.

A junked vehicle or part of a junked vehicle as a public nuisance may be abated and removed from a private or public property or a public right-of-way if the following procedures are followed:

- a. A person authorized to administer the procedures to abate and remove the nuisance may enter private property to:
 - (1) Examine a public nuisance;
 - (2) Obtain information to identify the nuisance; and
 - (3) Remove or direct the removal of the nuisance.
- b. A public hearing shall be provided before removal of the public nuisance if requested in writing by a person to whom notice is required.
- c. The municipal court may issue necessary order to enforce the procedures of this article.
- d. Procedures for abatement and removal of a public nuisance must be administered by regularly salaried, full-time employees of the municipality or county, except that any authorized person may remove the nuisance.

50.40 Commencement of abatement proceedings

- a. The proceeding for abatement and removal of a public nuisance under this article shall be commenced upon the sending of the notice as prescribed by this article.
- b. Relocation of a public nuisance to another location within the city limits, after a proceeding for the abatement and removal of the public nuisance has commenced,

shall have no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

50.50 Notice to abate

- a. Notice for abatement and removal of a public nuisance under this article must provide not less than ten (10) days notice of the nature of the nuisance. The notice must be personally delivered or sent by certified mail with a five-day return requested to:
 - (1) The last known registered owner of the nuisance;
 - (2) Each lien holder of record of the nuisance; and
 - (3) The owner or occupant of:
 - a. The property on which the nuisance is located; or
 - b. If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- b. The notice must state that:
 - (1). The nuisance must be abated and removed not later than the tenth day after the date on which the notice was personally delivered or mailed;
 - (2) Any request for hearing must be in writing and be made before the ten-day period expires.
- c. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
- d. If the notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh day after the date of the return.

50.60 Abatement Hearing.

- a. If a persona for whom notice is required under this section requests a hearing, the public hearing shall be held no earlier than the 11th day after the date of the service of notice.
- b. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- c. The court shall issue an order or resolution following the conclusion of the hearing.
- d.
 - (1) Prohibit the vehicle from being reconstructed or made operational after removal;
- e.
 - (2) Require that, not later than the fifth day after the date of removal, notice identifying the vehicle or part thereof be given to the appropriate state agency or department for the cancellation of the certificate of title issued for the vehicle.
 - (4) Include if the information is available at the location of the nuisance, the vehicle's:
 - a. Description;
 - b. Vehicle identification number; and
 - c. License plate number.

50.70 Removal and disposal of nuisance.

- a. The ordered removal of a public nuisance by the court may be done by any person or entity so authorized by the city manager, police department, or code compliance department.
- b. A junked vehicle, including a part of a junked vehicle, may be removed to a scrap yard, a motor vehicle demolisher, or a suitable site.
- c. If the city or county determines that commercial disposition of junked vehicles is not available or is inadequate, the city or county may:
 - (1) Finally dispose of a junked vehicle or vehicle part; or
 - (2) Transfer it to another disposal site if the disposal is scrap or salvage only.

- d. Any proceeds from the transfer of the junked vehicle or part thereof to the site authorized by this section shall be used to reimburse the city for all costs incurred in the notification, investigation, hearing, and disposal procedures (including any and all variable towing and disposal fees from contracted sources) within this article. Any remaining proceeds shall be transferred to the lien holder of record or, if none, the owner of record.
- e. The vehicle may not be reconstructed or made operable after removal.

50.80 Exceptions

The procedures and penalties authorized by this article shall not apply to a vehicle or vehicle part that is:

- a. Completely enclosed in a building in a lawful manner and is not visible from the street or public or private property or:
- b. Stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique vehicle or a special interest vehicle, stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outside storage area, if any, are:
 - (1) Maintained in an orderly manner;
 - (2) Not a health hazard; and
 - (3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

§ 60.00 Permits.

§ 60.10 Peddlers.

a. It shall be unlawful for any peddler to sell or solicit in the City of Bovina door to door, or to use the public streets for the purpose of soliciting or selling without first obtaining a permit from the City, which license, to be known as "Peddler's License" for each person engaged in the City as a peddler, and said license shall be valid for a period of thirty (30) days from the date of issuance only; provided further that a license shall be required for each individual, whether working as an individual or as a group for a company, partnership, or association of individuals.

b. Each applicant must apply in writing to the City Secretary, stating name, current address, company's name and address, the goods and wares being offered for sale, whether or not the goods will be available at the time of sale or will be delivered at a later date, and a current/valid driver's license number and photocopy.

c. In addition to the above application and prior to the issuance of a peddler's permit, each applicant shall post a bond in the sum of one thousand dollars (\$1,000), signed by the applicant and some surety company authorized to do business in the State of Texas, conditioned for the final delivery of said goods, wares, merchandise, services, photographs, magazines, and/or newspapers, in accordance with the terms of the order taken, and further conditioned to identify any and all purchasers or customers for any and all defects in materials or workmanship that may exist in the goods sold by said purchaser or customer within thirty (30) days after delivery, and said bond shall be for the use and benefit of all persons, firms, or corporations that make any purchase or give any order to said peddler or an agent or employee of the peddler.

d. Provisions of this section shall not apply to sales made to any dealers by commercial travelers or sales agents in due course of business, or sales made by vendors, nor for the sales of newspapers, nor insurance salesman or church, club, or local school/sponsored activities.

§ 60.20. Public Gathering.

a. Every person, group, organization, or firm sponsoring a public dance within the corporate limits of Bovina shall apply and receive a dance permit at least seventy-two (24) hours prior to the beginning of the gathering of more than 30 or where alcohol is served.

b. The cost of the permit shall be one dollar (\$1) and shall be issued by an employee and approved by the Chief of Police or City Manager. It shall be unlawful to sponsor a public gathering without a permit.

c. It shall be unlawful for any public gathering to continue beyond 11:59 PM of the day for which the permit described above was issued unless additional time has been designated on the permit and the participants of the public gathering as well as the sponsors shall be committing an unlawful act.

d. Sponsors of a public gathering may request a definite period of time for the gathering to continue beyond 11:59 PM. This time period may be approved by the City Manager.

e. The Chief of Police or a member of the City Police Department, or other duly commissioned peace officer of the State of Texas shall be authorized to terminate any public gathering within the City Limits of Bovina and order its participants to leave if the sponsors can not or will not present the permit required or are unable or unwilling to maintain order both inside the building where the public gathering is in progress or on the surrounding grounds. Any person ordered to leave and not doing so immediately shall be committing an unlawful act and be in violation of this ordinance.

f. Issuance of the permit may be contingent upon notification of the Chief of Police, City of Bovina, and verification of the security personnel certification.

70.40 Licensed Peace Officer Required

a. Any public gathering within the corporate limits of the City and where alcohol is consumed shall be guarded and secured by an off duty licensed police officer. Licenses shall be valid for the Texas Commission on Law Enforcement Officers Standards and Education (TCLEOSE). There shall be one (1) officer for any public gathering of 30 adults or more and an additional officer in accordance with the following guidelines:

# of Adults	# of Officers
0-30	0
30-40	1
40-60	2
60-80	3
80>	4

c. In the event where the owner of the property is not the sponsoring person, group, organization, or firm, the owner is responsible for insuring compliance with this section of the Code.

d. A Public Gathering Permit, requiring police officers, must be signed and issued by the City Manager at least seventy-two (72) hours prior to the beginning of the gathering.

Aaa. PUBLIC GATHERING: Any assembly of 30 or more people, excluding recognized or organized religious ceremonies, and includes, but is not limited to, any party, or other assembly to which the public or a substantial group of the public has access.

§ 60.30. Trailer Permits: Any bumper pull, fifth wheel, or mobile trailer or camper within the City Limits of the City of Bovina, Texas, that may be used as a habitat, permanent or temporary, is bound and regulated by the City Ordinances, specifically § 150.00. Zoning and Planning. **Exceptions to this portion of the Code applies to a Business run Recreational Park to which 6 different hookups will be allowed on one meter, and service for trash will include 6 spaces. All of them will be the responsibility of the Business owner. This falls under the Zoning Business portion of the Code.**

a. Trailers or campers used by someone visiting a resident of the City of Bovina are authorized. Hookups to the permanent residence is permissible except for any connection with the sewer.

b. Trailers or campers hooked or connected to the sewer for any reason or length of time is not authorized without a permit obtained from City Hall in advance, and that permit shall be valid for only a 30 day period, renewable on a case by case basis by the City Manager. The cost of the permit shall be the set utility cost for one month's sewer and trash service.

c. Failure to obtain a permit shall subject the original residence where the hookup was connected to an additional utility charge for trash, sewer, and service for the time of the hookup in addition to any fines or court costs assessed for the violation of this Ordinance and § 150.00. Zoning and Planning.

§ 70.00. Police/Traffic

§ 70.10. In conjunction with § 2.50. the Bovina Police Reserve Force is repealed upon passage of this City Code.

§ 70.20. Speed Limits within City Limits: All roadways inside the City Limits will be 30 MPH unless otherwise posted.

§ 70.30. Curfew Hours for Minors.

a. Definitions:

(1) Curfew Hours means:

(a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(b) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday.

(2) Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life

(3) Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(4) Guardian means:

(a) a person who, under court order, is the guardian of the person of a minor; or

(b) a public or private agency with whom a minor has been placed by a court.

(5) Minor means any person under 17 years of age

(6) Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(7) Parent means a person who is:

(a) a natural parent, adoptive parent, or step-parent of another person; or

(b) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor

(8) Public Place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(9) Remain means to

(a) linger or stay; or

(b) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(10) Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

b. Offenses

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

c. Defenses

(1) It is a defense to prosecution under § 70.30.b. that the minor was:

- (a) accompanied by the minor's parent or guardian;
- (b) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (c) in a motor vehicle involved in interstate travel;
- (d) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (e) involved in an emergency;
- (f) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (g) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor;
- (h) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (i) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(2) It is a defense to prosecution under § 70.30.b.(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

d. Enforcement: Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present.

e. Penalties.

(1) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

(2) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates § 70.30.b.(1) of this section and shall refer the minor to juvenile court.

f. Reviewed by City Council on 12 October 2004.

§ 70.40. Noises Interfering with Enjoyment of Property or Public Peace and Comfort:

a. No person shall make or cause to be made any loud and raucous noise in the city which is offensive to the ordinary sensibilities of the inhabitants of the city, which noise renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.

b. No person shall use any dynamic braking device on any motor vehicle, except to avoid imminent danger to persons or property. A dynamic braking device, commonly referred to as a Jake or Jacob Brake, is one used primarily on trucks and buses to convert a motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.

§ 70.50. Security Guard Requirements.

a. Any public gathering within the corporate limits of the City and where alcohol is consumed shall be guarded and secured by an off duty, licensed police officer or licensed security guard. Licenses shall be valid for the State of Texas. There shall be one licensed police officer or licensed security guard for any public gathering of 75 adults or more and an additional licensed police officer or licensed security guard in accordance with the following guidelines:

# of Adults	# of Guards
0-74	0
75-149	1
150-249	2

250<

3

b. In the event where the owner of the property is not the sponsoring person, group, organization, or firm, the owner is responsible for insuring compliance with this section of the Code.

§ 80.00. Public Services.

§ 80.10. Water and Sewer Line Connection Charges.

a. The city will install and maintain all house laterals from the city sewer mains to the nearest property or easement line and all water service connections from the city water main to the nearest property or easement line. The city shall charge for the installation and maintenance of such sewer house laterals and water services a sum sufficient to cover the average cost thereof, which shall be charged at and on the following rates or basis:

(1) Sewer lateral connection charge.

Tap Size	Charge
4"	\$321
6"	\$342
8"	\$364

(2) Water service connection charge.

Any tie in	\$300
¾"	\$518
1"	\$715
1 ½"	\$994
2"	\$1,458

b. For sewers in streets of new subdivisions where house services are already installed to the property lines a tap charge of \$22 will apply.

c. The property owner shall be responsible for the maintenance of all service lines between the property or easement line and the house.

§ 80.20. Water and Sewer Extensions of Mains.

a. Upon request of the owner, or his agent, of a given lot or tract of land, for the purpose of this subchapter known as the "applicant," accompanied by the payment of the charges due under this subchapter, the city shall extend, lay or construct all necessary sanitary sewer and water mains, including valves and hydrants, a distance of 100 feet, plus the distance across the frontage necessary to provide the service for which application has been made. The property owner to be served shall be required to pay the charge herein provided for. The owners of all intervening property served by the given main extension shall be required to pay the charges provided for herein at such time as their property is connected to the mains thus laid. Where an applicant for service secured an extension and service under this particular option for main extension, he shall pay the pro rata charges on all property owned by him which is served by the extension requested. In applying the 100-foot rule, the required extension of main shall be figured in such a manner as to leave out of the calculation that portion of any main adjacent to property already having other than a temporary water service and for which the pro rata charges thereon have been paid or credited under the terms of this subchapter. Only one extension under the 100-foot rule will be given to an individual during a 12-month period.

b. An exception to the above 100-foot rule shall be made where two or more individual applicants desire water and/or sewer service and the nearest applicant is more than 100 feet from existing lines, the city will extend their mains upon payment of the charge due under this subchapter, provided, that there is one customer for every 100 feet of such extension, excluding street intersections and that portion of the extension adjacent to property already having other than temporary water and/or sewer service.

c. At the option of the city the following method for extending water and sewer mains may be used where the applicant's property is more than 100 feet from an existing water and sewer main. This method shall be available only for use by an individual owner, person or corporation to secure water and sewer service for the individual's residence or place of business. Where eligible for this option, the owner may advance and pay into the city, the entire pro rata costs, as set forth in this subchapter.

§ 80.30. Connection with Water Mains to be made by Public Works: All connections with city water mains shall be made by the City Waterworks Department at the direction of the City Engineer.

§ 80.40. Customer Service Policy for the Bovina Utilities

a. Purpose: The purpose of the Bovina Utilities is to provide a safe, efficient, and timely water supply, sewer, and trash collection to the customers within its service area (defined as the residence of anyone (property owner, renter, or inhabitant irregardless of whether monies are exchanged) living in a separate dwelling, apartment, or trailer within the City Limits where utilities are provided), and to ensure every customer of the Bovina Utilities is treated in a fair and equitable manner.

b. General Rules:

(1) The Utilities will consist of water, sewer, and trash service, per each customer/connection.

(2) Each customer of the Utility shall be eligible to receive service from the Utility only after providing appropriate identification (picture ID from a State of Federal institution), proof of SSI, proof of no delinquent and/or due utility charges in Bovina and through out the Panhandle of Texas, payment of a turn-on fee, and payment of a deposit.

(3) The Utility agrees to provide water service to the point of delivery, install a meter at the customer's expense, and maintain all lines up to and including the meter box.

(4) The customer shall install and maintain, at his own expense, water service lines, a shutoff valve, and a backflow preventor from the point of delivery to the point of use. The customer will make timely repairs as necessary.

(5) A metered water service connection is for the sole use of the applicant or customer. Customers shall not permit the extension of pipes for the purpose of transferring water from one property to another, from one point of use to another, nor share, resell, or sub-meter water to any other person or entity. This includes water transfer utilizing water hose(s). Upon discovery of such transfer or extension of any utility service, the existing customer will be charged an additional fee (one month minimum charge per month) for this service, which will be added to the existing customer's next bill.

(6) At no time shall any customer or individual, other than a Utility representative, connect or disconnect the water lines. Representatives of the Utility shall have the right to enter a customer's premises for the purpose of inspection and enforcement of this policy at all reasonable hours. Violations of this policy shall constitute cause for immediate disconnection of service.

(7) It is the responsibility of each customer to anticipate changes in occupancy and to notify City Hall to terminate service. Until service is formally terminated, the original customer shall be responsible for all payment, late fees, and charges of the service. Service to the terminating customer or customer's family may be refused until all past-due bills and charges have been paid.

(8) The customer agrees to pay the established fees for utility service in accordance with applicable rate schedules at the time service is provided by the Utility.

(9) The Utility shall make all reasonable efforts to supply continuous, uninterrupted service. However, it shall have the right to interrupt service for the purpose of making repairs, connections, extensions, or other necessary work. Efforts will be made to notify customers, who may be effected by such interruptions, but the Utility will not accept responsibility for losses which might occur due to such necessary interruptions, nor does the Utility accept responsibility for losses due to interruptions of service caused by storms, floods, or other causes beyond its control.

c. Obtaining Utility Service:

(1) Applications for service shall be taken at City Hall and must be accompanied by a turn on fee and a deposit, as set forth by the annual budget. The turn on fee will be non-refundable. The deposit will be refundable, when service is disconnected or terminated, any portion of the deposit remaining after current bills are paid will be returned to the customer.

(2) Customers shall arrange for a licensed plumber to make connections between the service line and the meter. The Utility Representative will inspect all connection to the service line prior to service.

d. Transfer of Service: Applications for transfer of service will be the same as for an application of service, except for the additional requirement of paying any passed due amounts from previous billings. If the account is current, the old bill may be transferred to the new

address. Transferring an account from one family member, with a delinquent account, to another family member or occupant of the house, regardless of the address, with the intent of hiding from the obligation of payment will not be authorized.

e. Customer Billing:

(1) Customers will be billed monthly in accordance with the rate structure of the Utility.

(2) Water meters will be read between the 20th and 25th day of each month.

(3) Bills will be mailed on or about the 1st day of each month. Late fees will be charged at 0800 on the 15th of each month. If the 15th falls on a weekend or holiday, any payments left in the over night drop box will be deemed paid on time at 0800 on the first work day after the 15th.

f. Termination of Service:

(1) Customer who fails to pay the entire amount due by the 22nd day of each month will be subject to termination of service.

(2) Notification of termination will not be necessary as each bill contains an admonition concerning termination of service on the 22nd. The customer is considered forewarned.

(3) Customers who are disconnected will be charged a disconnect fee.

(4) Customers may appeal late fees, additional charges, and/or a termination of service to the City Secretary and/or the City Manager, with the final authority being the City Council. Reasonable requests may be honored. Reasonable payment arrangements may be agreed upon.

g. Re-Connection of Service: Customers desiring restoration of service after termination for non-payment must pay arrears in the full amount.

h. Changes in Policy and Rates: This policy and utility rates will be reviewed at least once annually. All rate changes, deposits, and charges will be approved in accordance with the annual budget.

§ 80.50. Minimum Standards of Sanitation and Health Protection Measures

a. Unless otherwise specified within this Code, the City of Bovina adopts the minimum standards of sanitation and health protection outline by Chapter 341 of the Texas Health and Safety Code.

b. Human excreta, defined as urinary and bowl discharges of a human, in a populous area shall be disposed of through properly managed sewers, treatment tanks, chemical toilets, or privies constructed and maintained in conformity with the City's specification, or by other means approved by the City. The disposal system shall be sufficient to prevent pollution of surface soil, the contamination of drinking water supply, the infection of flies or cockroaches, or the creation of any other public health nuisance.

c. Criminal Penalty:

(1) A person commits an offense if the person violates this Section of the Code or a rule adopted under this Section of the Code. A person commits an offense if the person violates a permitting or inspection requirement under this Section of the Code. An offense under this Section is a misdemeanor punishable by a fine of not less than \$10 or more than \$200.

(2) If it is shown on the trial of the defendant that the defendant has been convicted of an offense under this chapter within a year before the date on which the offense being tried occurred, the defendant shall be punished by a fine of not less than \$10 or more than \$1,000.

(3) Each day of a continuing violation is a separate offense.

§ 90.00. Safety.

§ 90.10. Discarded Appliances or Cabinets.

a. Any stove, clothes washer, clothes dryer, dishwasher, refrigerator, freezer, or cabinet that is in use or is no longer in use for its original or unintended use for which it was designed and manufactured and which can not be opened from the inside when closed, must and shall be kept in a locked and completely enclosed building.

b. Any discarded stove, clothes washer, clothes dryer, dishwasher, refrigerator, freezer, or cabinet is a public nuisance and is dangerous and could cause a human being harm, especially a minor, to become trapped inside and suffocate.

c. It is therefore declared unlawful for any person, firm, partnership, association, or corporation to leave or permit to remain upon any public property, public right-of-way, or upon any lot, tract of land, or alley within the City Limits any stove, clothes washer, clothes dryer, dishwasher, refrigerator, freezer, or cabinet as defined in § 90.10.a. above.

d. Whenever any such public nuisance exists in the City, the City Manager or designated official shall send written notice by certified mail with a ten (10) day return requested, to the owner or occupant of the premises whereupon such nuisance exists or abuts the public property, to abate and remove such public nuisances. Such notice shall state the nature of the public nuisance and specify that the nuisance must be abated and removed within ten (10) days after the delivery date of the notice. If the notice is returned undelivered by the United States Post Office, official action by the City to abate said nuisance to a date not less than ten (10) days from the date of such return.

e. In the event such discarded stove, clothes washer, clothes dryer, dishwasher, refrigerator, freezer, or cabinet, after due notice and expiration of time set forth, has not been removed or the nuisance abated, then the City shall remove said nuisance and make needed adjustments to render it harmless. Said nuisance shall not be made operational but used only as salvage material. The owner of the stove, clothes washer, clothes dryer, dishwasher, refrigerator, freezer, or cabinet is liable for all costs and fines thereof as may be appropriate.

§ 90.20. Fireworks.

a. The sale, purchase, storing, and/or use of pyrotechnics (Fireworks) of any kind is strictly prohibited within the City Limits of the City of Bovina. This includes all noise makers, sparklers, explosives, projectiles, and/or rockets.

b. A City sponsored fireworks display is authorized by permit through City Hall and the Fire Department.

c. Qualified individuals and commercial entities may purchase a ninety (90) day permit, from the City for \$25.00, to sell fireworks, within the City limits within a zone north of Highway 60, when authorized by petition of City Council prior to 26 June or 17 December, respectively, and subject to inspection by Bovina City Fire Marshall.

§ 90.30. Possession and/or consumption of alcoholic beverages on City property.

a. It is and shall be unlawful to consume or possess for the purpose of consuming and alcoholic beverage on any City property. This includes any and all buildings, parking lots, vacant lots, dump grounds, cemetery, and/or parks.

b. Possession of an opened or broken-seal container, containing any alcoholic beverage shall be *prima facie* evidence that the possession is for the purpose of consumption. Such possession need not be exclusive to be a violation of this section.

c. Any alcoholic beverage possessed in violation of this section is declared to be an illicit beverage and may be seized without a warrant and may be used as evidence of a violation of law, and any person(s) in possession thereof may be arrested without warrant.

§ 90.40. Safety and Protection of the Public Water Supply: For the purpose of protecting the public water supply of the City of Bovina and the public water wells within the City Limits.

a. Prohibitions for Protection of the Public Water Supply.

(1) The construction and operation of underground petroleum and/or chemical storage tanks and liquid transmission pipelines, stock pens, feedlots, dump groups, privies,

cesspools, septic tank or sewage treatment drain fields, improperly constructed water wells of any depth, and all other construction or operation that could create an unsanitary condition within, upon or across any property located within one hundred fifty foot (150') radius of any public water supply well within the corporate limits of the City is hereby prohibited. This includes construction and operation of said entities within the City's ETJ. All non City owned and operated water wells and sewage treatment operations are strictly prohibited. At no time shall a non City water source or sewage source be connected to any City water or sewage line. For the purposes of this section, improperly constructed water wells are those which do not meet the surface and subsurface construction standards for a public water supply.

(2) The construction of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, and cemeteries is specifically prohibited within a fifty foot (50') radius of any public water supply well within the City Limits or ETJ.

(3) Nothing in this section shall prohibit the construction of homes or buildings upon properties within the areas described above provided all restriction prescribed within this Code are recognized and followed.

(4) Nothing in this section shall be construed to prohibit the normal farming and ranching operations allowed elsewhere within this Code except that in no circumstances shall livestock be allowed within fifty foot (50') radius of any public water well within the City or ETJ.

§ 90.50. The City Parks shall be closed to the public from 11 PM to 6 AM, Monday through Sunday.

§ 90.99. Penalty. Any person, firm, association, or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and convicted thereof shall be punished by a fine as set by law per each violation occurrence.

§ 100.00. Taxes.

§ 100.10. Process

a. Tax rates for the City of Bovina shall be set by the City Council as part of the annual budget process as provided for in § 4.00. Financial. After the required discussion process, public hearing, council deliberation, and approval, such rates as provided in the Budget Resolution will become effective on 1 October of each year

b. Tax rates shall be set at a level such that each cost center or department shall be sufficient to cover all expected yearly cost for each cost center and to provide for future expenses, capital improvements, and expansion in accordance with the Capital Improvements Plan approved and adjusted yearly as part of the budget process.

c. City Sales Tax may be implemented with a general election for specific fund programs as allowed by State Statute. If these monies are not used for the specific function intended, the monies collected must be set aside and used for public programs until such time as the Sales Tax may be repealed by general election.

§ 100.20. Taxation of Telecommunications Services:

a. A tax is hereby authorized on all telecommunications services sold within the City of Bovina, Texas. For the purposes of this section, the sale of telecommunications services is consummated at the location of the telephone or other telecommunication device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

b. The rate of the tax imposed by this section shall be the same as the rate imposed by the City of Bovina, Texas, for all other local Sales and Use Taxes as authorized by the legislature of the State of Texas.

c. The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered Mail a copy of this ordinance along with a copy of the minutes of the City Council's vote and discussion on this section of this ordinance.

d. This section shall become effective as of 1 October 2002.

§ 110.00. Utility Rates.

a. Utility rates for the City of Bovina shall be set by the City Council as part of the annual budget process as provided for in § 4.00. Financial. After the required discussion process, public hearing, council deliberation, and approval, such rates as provided in the Budget Resolution will become effective on 1 October of each year

b. Utility rates shall be set at a level such that each cost center (water, sewer, and trash collection) be sufficient to cover all expected yearly cost for each cost center and to provide for future expenses, capital improvements, and expansion in accordance with the Capital Improvements Plan approved and adjusted yearly as part of the budget process.

c. The existing utility rate(s) (per monthly charge) for the City of Bovina, Texas is as follows:

Water		
	Inside City Limits	
	Basic	\$16.00 for 4,000 gallons
		\$1.20 for each 1,000 gallons from 5,000 to 49,000 gallons
		\$1.50 for each 1,000 gallons from 50,000 to 69,000 gallons
		\$1.80 for each 1,000 gallons for 70,000 gallons and over
	Outside the City Limits	
	Basic	\$32.00 for 4,000 gallons
		\$2.00 for each 1,000 gallons from 5,000 to 49,000 gallons
		\$2.50 for each 1,000 gallons from 49,000 to 69,000 gallons
		\$3.00 for each 1,000 gallons for 70,000 gallons and over
Sewer		
	Residential	\$32.00 per connection
	Commercial	\$40.00 per connection
	OSCL Commercial	\$60.00 per connection
Trash		
	Residential	\$22.50 per connection
	Commercial	\$64.00 per dumpster
	OSCL Residential	\$35.00 per dumpster
	OSCL Commercial	\$70.00 per dumpster
	Note: Fuel Adjustment is allowed as per pro rata per Contractor	

§110.10. Atmos Energy Company Rates.

a. That the existing rates and charges of Atmos are hereby found, after reasonable notice and hearing, to be unreasonable and shall be changed as hereinafter ordered. The changed rates resulting from this Ordinance are hereby determined to be just, reasonable, and nondiscriminatory rates to be observed and in force within the City.

b. That it is hereby ordered that the Company's rates in the City be set on the basis of a \$3,199,885 (or 2.93%) increase in overall system average revenues for the West Texas Distribution System.

c. That the Company has agreed to modify the rates proposed in its Statement of Intent and the modified rates are reflected in the revised tariffs for gas service as follows:

(1) Residential Gas Service	\$8.50	Commodity Charge	\$0.11035 per Ccf
(2) Commercial Gas Service	\$14.00	Commodity Charge	\$0.0970 per Ccf
(3) Small Industrial Gas Service	\$55.00	Commodity Charge	
		0-50 ccf	\$0.0965
		All over 50 ccf	\$0.0750
(4) Public Authority Gas Service	\$42.00	Commodity Charge	\$0.083 per Ccf
(5) State Institution Gas Charge	\$40.74	Commodity Charge	\$0.08051 per Ccf

(6) Weather Normalization Adjustment (WNA) Rider. The base rate per Ccf (100,000 Btu for gas service set forth in any Rate Schedule utilized in the City or its environs for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Winter Normalization Adjustment". The WNA shall apply to all temperature sensitive residential, commercial, and public authority bills based on meters read during the revenue months of October through May.

The maximum general service rates for sales and transportation of natural gas rendered to residential, commercial, public authority, and industrial consumers within the municipal limits of Bovina, Texas by Atmos are hereby fixed and approved as set forth in §110.10.C. The rates reflected in the attached tariffs are found to be reasonable. Nothing contained herein shall limit the right of industrial and transportation customers with competitive options to negotiate rates with the Company that differ from approved tariffs. Nothing contained herein shall be construed as approval of any provision of Atmos' Application unless such provision is specifically approved herein.

d. That the Weather Normalization Adjustment Rider, as requested by Atmos and shown in §110.10.C.(6), is found to be reasonable and is hereby approved.

e. That the Gas Cost Adjustment Rider filed as part of the Application has been withdrawn by the Company. Instead, the existing Gas Cost Adjustment Rider will remain in place and effect as previously approved by the Railroad Commission of Texas. The existing Gas Cost Adjustment Rider is found to be reasonable and is hereby approved as part of Atmos' revised tariffs.

f. For purposes of a future GRIP filing under Texas Utility Code §104.301 (Vernon Supp. 2004), and only for such purposes, it is agreed that Atmos may benchmark its rate base for its West Texas Distribution System at \$87,479,804; its rate of return on equity at 10.5%, resulting in a corresponding weighted average cost of capital of 8.66%; and its depreciation rates and revenue-related tax factors as set forth in the Application filed herein. Nothing contained herein shall be regarded as a declaration that a future GRIP filing is reasonable or that future regulatory approval should be anticipated.

g. That Cities' rate case expenses are found to be reasonable and shall be reimbursed promptly by the Company. The Company's rate case expenses shall not exceed \$100,000. The Company is authorized to recover the rate case expenses reimbursed to Cities and the Company's rate case expenses through a consumption-based 12-month surcharge based upon total system sales. The Company shall submit a reconciliation to the City by 30 September 2005, to prove that the Company has not over-recovered rate case expenses.

h. The aforesaid rate schedules and riders herein approved shall be effective for bills rendered on or after 1 May 2004, irrespective of the date this Ordinance is finally approved.

i. The rates set forth in this Ordinance may be changed and amended by either the City or Company in any other manner provided by law. Service hereunder is subject to the orders of regulatory bodies having jurisdiction, and to the Company's Rules and Regulations currently on file with the City.

j. Unless otherwise noted herein, other than Atmos (a named party), no person or entity has been admitted as a party to this rate proceeding.

k. It is hereby found and determined that said meeting at which this ordinance was passed was open to the public, as required by Texas law, and that proper advance public notice of the time, place and purpose of said meeting was given.

l. This Ordinance shall be served on the Company by U.S. Mail to the Company's authorized representative, C.W. "Bill" Guy, Vice President of Rates and Regulatory Affairs, Atmos Energy Company, P.O. Box 1121, Lubbock, Texas, 79408.

m. Nothing contained in this Ordinance shall be construed now or hereafter as limiting or modifying, in any manner, the right and power of the City under law to regulate the rates and charges of Atmos Energy Company.

n. All ordinances, resolutions, or parts thereof, in conflict with this Ordinance are repealed to the extent of such conflict.

§ 120.00. Vehicles and Equipment.

§ 120.10. Maintenance of City Owned Vehicles.

a. The attached is a Vehicle Maintenance Checklist which will be utilized and completed by all departments of the City of Bovina, that have motorized vehicles, to ensure preventative maintenance procedures are followed for all city owned vehicles. The Vehicle Maintenance Checklist will be completed and filed with the City Manager in a timely manner. If during the routine inspection it becomes obvious a repair of some part of the vehicle is in need of repair, it should be noted on the checklist. The repair can either be taken immediately by the inspector with the Department Supervisor's concurrence if the repair is minor, \$50 or less, or should be appropriately reported if the repair is expensive or of such a nature it exceeds the replacement value of the vehicle.

b. These checklists must be completed once a month for each vehicle. While certain actions such as changing the oil and filter need only occur every 3,000 miles or 3 months for each vehicle, it is still imperative to check all fluids at least once a month in order to prevent any major breakdowns. City employees and volunteers may not be able to perform all inspections on the checklist. However, the date, of the last time the test was performed for that vehicle, must be annotated on the checklist.

Vehicle Maintenance Checklist

Department: Police
 Water and Sewer

Ambulance
 Fire

Vehicle, Model, and Year: _____

Mileage: _____ Inspector: _____ Date: _____

Signature: _____

Lubrication

Engine:

- Oil Levels
- Engine Oil Filter
- Engine Oil Change

Transmission:

- Transmission Oil Levels
- Transmission Filter
- Transmission Fluid Change
- Differential/Transaxle Lubricant
- Chassis Lubricant

Wheels:

- Wheel Bearings – Clean, Repack, Adjust
- Wheel Balance

- Wheel Alignment

Tires:

- Tire Condition – Including Spare
- Tread Depth

- Air Pressure
- Rotation

Engine:

- Performance Analysis
- Air Filter
- PCV Valve
- Canister Filter
- Exhaust Analysis

- Spark Plugs/Glow Plugs
- Fuel Filter
- Crankcase Filter
- Emission Control System

Brakes:

- Inspect Brake System
- Flush, Bleed, & Adjust Brake System

- Brake Fluid Level & Condition
- Adjust Parking Brake

Cooling System:

- Level and Condition
- Pressure Test
- Hoses, Clamps, & Thermostat
- Heater Operation

- Antifreeze Protection
- Radiator Cap
- Power Flush

Drive Belts:

- Fan & Accessory Belts
- Belt Tension & Adjustment

- Camshaft & Timing Belt

Battery:

- Electrolyte Level
- Connections & Cables

- Condition
- Battery Protection Treatment

Air Conditioner:

- Performance Test

- Discharge, Evacuate, & Recharge

↑ A/C Filter/Drier

↑ Leak Test

Steering & Suspension:

↑ Inspect

Exhaust System:

↑ Inspect

Lights and Horn:

↑ Head Lamps

↑ Running Lights

↑ Horn

↑ Tail Lights

↑ Siren and Flashers

↑ Emergency Lights

§ 130.00. Bovina Volunteer Emergency Services Department

§ 130.1. Fire Department

§ 130.1.10. In accordance with:

Texas Local Government Code, § 342.004. Fire Department

(a) The governing body of the municipality may organize a fire department consisting of fire companies and the chief and any assistant engineers. The governing body shall prescribe the powers and duties of the fire department and its officers.

(b) Each company may elect its own members and officers. A company may adopt a constitution and bylaws that are not inconsistent with the statutes and the municipal ordinances.

(c) The fire department engineers shall be chosen as determined by the department, subject to the approval of the governing body, which shall pass ordinances that it considers necessary for the welfare of the department. The mayor shall commission each elected officer approved by the governing body.

(d) The governing body may obtain fire engines and other fire-protection equipment, control the use of the equipment, and provide fire stations to preserve the equipment. The fire department shall maintain the fire engines and other fire-protection equipment.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

(e) "Volunteer Fire Department" means a fire-fighting organization that:

- (1) operates fire-fighting equipment;*
- (2) is organized primarily to provide fire-fighting service;*
- (3) is actively providing fire-fighting service; and*
- (4) does not pay its members compensation other than nominal compensation.*

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999.

The City of Bovina hereby authorizes, establishes, and continues the existing Bovina Volunteer Fire Department for the City of Bovina and the surrounding fire service area with the incorporation of the Constitution and By-Laws of the Bovina Volunteer Fire Department into the City Code.

§ 130.1.20. Organization. The Volunteer Fire Department shall consist of twenty (20) active members to be divided into two (2) companies (Numbers 1 and 2) plus a Fire Chief, Assistant Chief, and a Secretary-Treasurer and any number of inactive volunteer firemen on the inactive rolls. The Fire Chief reports to the City Manager and works closely with the City Manager in preparation of annual budgets and financial forecasts.

§ 130.1.30. Membership.

a. All firemen now on the rolls will be considered members of the department and shall remain so until their resignation is tendered or until they are dropped from the rolls for the reasons set forth herein.

b. Application for membership in the volunteer fire department shall be presented by a person or persons at least eighteen (18) years of age at a regular meeting and applicants must attend four (4) regular meetings in succession and shall be investigated by the officers of the department. An applicant must be able to be certified, in accordance with applicable Texas State Statutes. Membership is confirmed by recommendation of the Fire Chief and a majority vote of members in attendance at the fourth consecutive meeting of the applicant.

c. All members serve as volunteers of the department and shall receive no monetary compensation for their efforts, except for a reduced utility rate as set by the City of Bovina, in accordance with the fiscal budget.

§ 130.1.40. Attendance.

a. All members shall attend one hundred percent (100%) of all fires, regular meetings, and training events, or have an acceptable excuse, in the opinion of the Fire Chief, for his absence.

b. Three (3) unexcused absences in a row or six (6) absences in any twelve (12) month period shall constitute sufficient reason to drop a fireman from the active roll to an inactive roll. Members on the inactive rolls are not eligible for the reduced utility rates offered by the City. Four consecutive attendances at regular meetings, fires, or training events or a combination thereof, with the recommendation of the Fire Chief, constitutes transfer from the inactive rolls to the active rolls.

c. An excused absence shall be one approved of by the Fire Chief and interpreted as sickness or death of the fireman or a member of the immediate family, working conditions or schedule preventing attendance, on vacation, or out of town for any reason.

d. If a member is absent or knows that he will be absent, he shall advise the Chief or Secretary-Treasurer of his intentions before or within twenty four (24) hours of the event, so that he may be counted as excused.

§ 130.1.50. Duties of Fire-Fighters

a. It shall be the duty of all fire fighters to respond promptly to all fire calls and meetings, in accordance with established standard operating procedures.

b. The first fire-fighter on the scene of a fire or fire drill shall be in charge until proper officers arrive to take charge.

c. No fire-fighter shall leave the scene of a fire or a fire-drill until all equipment is ready for another fire, unless excused by the officer in charge.

§ 130.1.60. Officers.

a. The officers of the department shall consist of:

- (1) Fire Chief
- (2) Assistant Fire Chief
- (3) two (2) Captains, one for each company
- (4) two (2) Lieutenants, one for each company
- (5) Secretary-Treasurer
- (6) Safety Officer
- (7) Certification Coordinator or Clerk

b. Any active member, who has been active for one year and in good standing, is eligible for office.

c. The officers of the department shall be elected at the first regular meeting in January, each year, and said officers shall serve until the next regular election.

d. All vacancies of office shall be filled at the next regular meeting after vacancy occurs. This shall be done by regular election procedure. Election is by simple majority of those members present.

e. Duties of Officers:

(1) It shall be the duty of the Fire Chief to take charge at all fire calls and to direct and control the fire-fighters to the best of his ability. He shall preside at all regular meetings and training events to enforce order and direct the procedure of business. In his absence, the order of succession shall be the Assistant Fire Chief, Captain of Company #1, Captain of Company #2, Lieutenant of Company #1, Lieutenant of Company #2. and finally, in the absence of the above, the senior fire-fighter present. In addition, participate in the annual City budget process thus making the City aware of needs and projected funding requirements.

(2) It shall be the duty of the Secretary-Treasurer to keep a record of all meetings, to call the roll, keep books, receive all monies taken in by the department and deposit it in a depository, pay out of the treasury all sums authorized by the department, and to prepare an annual audit for the City of said funds. In addition, a semi-annual roster shall be submitted to the City Secretary listing all active and inactive members of the department.

§ 130.1.70. Funding.

- a. The City of Bovina shall provide all necessary funding for the department for fire-fighting equipment and training, in accordance with the City fiscal budget.
- b. Emergency funding will be on a case by case basis and approved by the City Manager.

§ 130.1.80. Meetings:

- a. Regular meetings will be the second and fourth Monday nights of each month at 1930 hours (7:30 pm). The siren will sound and pagers will inform everyone fifteen (15) minutes prior to the meeting time.
- b. Training events may be called by the Fire Chief as needed.
- c. Special meetings may be called by the Fire Chief or by six (6) active members. A majority of active members shall constitute a quorum, and their actions, subject to a 2/3 vote, will be binding to the department.

§ 130.2. EMS Department

- § 130.2.10. Organization
- § 130.2.20. Membership
- § 130.2.30. Attendance
- § 130.2.40. Officers
- § 130.2.50. Funding
- § 130.2.60. Meetings

§ 140.00. Bovina Housing Authority.

§ 140.10. Responsibility: The enforcement of the management policies for this housing project shall be the responsibility of the Housing Authority members.

§ 140.20. The appointment of the board will be done by the Mayor and approved by the City council.

§ 150.00. Zoning and Planning.

§ 150.10. Purpose. The purpose of this section is to zone the entire area of the City of Bovina into districts as made and provide by law, in accordance with Texas Municipal Law and Procedure Manual § 19.02.

§ 150.20. Plan. The comprehensive plan for the City of Bovina is for the purpose of promoting health safety, morals, and the welfare of the general public. It has been designed to lessen congestion in the streets; to provide safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of the land; to avoid undue concentration of population; to provide and facilitate adequate for transportation, water, sewage, schools, parks, and other public requirements. Said districts have been created with fair and reasonable consideration, among other things, of the character of each particular district and its peculiar suitability for a particular use, and with the view of conserving the value of land and building in each particular district, and of insuring the harmonious and appropriate use of all property.

§ 150.25. Building Lines and Setbacks.

a. In accordance with Texas Local Government Code § 214.131 - § 214.136:

(1) A Building Line is established for residential property, in the “A”, “B”, “C”, “D”, and “E” Districts, at twenty-five (25) feet measured from the front property line or curb or where the curb would be if the street was paved, curbed, and guttered.

(2) A Fence Setback is established for residential property, in the “A”, “B”, “C”, “D”, and “E” Districts, inside of existing sidewalk or in the absence of a sidewalk at ten (10) feet measured from the front property line or curb or where the curb would be if the street was paved, curbed, and guttered.

b. All current, existing structures are grandfathered until and unless altered, repaired, or rebuilt such that another Building Permit is required. However, IAW Texas Local Government Code § 214.131 - § 214.136, this “grandfather” status expires in twenty-five (25) years from the date of this ordinance (12 August 2029), and all existing structures MUST be brought into conformance.

§ 150.30. Zoning Districts.

a. In order to regulate different land uses, the City is hereby divided into different classes of districts:

- (1) “A1” District - Single Family Dwelling
- (2) “A2” District – Single Family Home to include Manufactured Homes
- (3) “B” District - Mobile Home
- (4) “C1” District - Two-Family Dwelling
- (5) “C2” District – Churches and Schools
- (6) “D” District - Apartment & Multi-Family Dwelling
- (7) “E” District - Local Retail
- (8) “F” District - Business
- (9) “G” District – Industrial & Manufacturing

b. The boundaries of each district shall be shown on the map which accompanies and is made a part of this ordinance and is designated as the Zoning Map, the boundaries shown by various colors, letters, notations, references, and other markings. The Zoning Map and all coloring, markings, notations, references, and other information shown on said Zoning Map shall

be and hereby made as much a part of this ordinance as if the Zoning Map and all notations, references, and other information shown thereon were all fully set forth or described herein.

c. Except as hereinafter provided:

(1) No building or land shall be used for any purpose other than that permitted in the District in which such building or land is located.

(2) No building shall be erected, reconstructed, enlarged, structurally altered, or moved unless it shall conform to the regulations for the District in which such building is located.

(3) Every building hereafter erected, enlarged, or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one lot except as hereafter provided.

(4) No lot area shall be reduced or diminished such that the yards or other open spaces shall be smaller than that prescribed by this ordinance nor shall the yard or open spaces provided for and about any building for the purpose of complying with the yard or lot area for any other building or lot.

d. All territory which may hereafter be annexed to the City shall be subject to all of the restrictions and regulations of this zoning and planning section.

e. Zoning Districts:

(1) "A1" District - Single Family Dwelling: Commonly referred to as a constructed on-site, ready built, or a manufactured home. In an "A" District, no building or land shall be used and no building shall hereafter erected or structurally altered which is rearranged or designed to be used for other than one or more of the following uses:

(a) Single Family Dwelling, stick built or ready built home.

(b) Public Parks or Play Grounds

(c) Accessory Buildings, including servant's quarters and private garages, are permitted, provided such building, if detached from the main building, shall not be located nearer than 80 feet from the front lot line nor less than 25 feet from any other street line no less than 3 feet from either inside lot line. The servant's quarters shall not be leased or rented to anyone other than the family of a bona fide servant giving more than 50 percent of his or her time to the family occupying the premises.

(d) The uses customarily incident to any of the above uses when situated on the same dwelling and not involving the conduct of a business; including the customary home occupations engaged in by the occupants of the dwelling and also including the office of a doctor, dentist, musician, artist, or similar profession when situated in same dwelling but said incidental use shall never be permitted as a principal use but only as a secondary use when indispensably necessary to the enjoyment of the premise for anyone of the use permitted in an "A" District and further provided that no name plate, sign board, or advertising sign of any nature exceeding two (2) square feet in area shall be permitted in an "A" District and not more than one (1) such sign if permitted to each residence.

(2) "A2" District – Single Family Home to include Manufactured Homes: Same as "A1" to include manufactured homes.

(3) "B" District - Mobile Home: Commonly referred to as a trailer home. In an "B" District, no building or land shall be used and no building shall hereafter erected or structurally altered which is rearranged or designed to be used for other than one or more of the following uses:

(a) Any use permitted in an "A" District.

(b) Mobile Home Dwelling.

(c) All mobile homes and manufactured homes will have the front door facing the street frontage length wise.

(4) "C1" District – Two Family Dwelling: In a "C" District, no building or land shall be used and no building shall be hereafter erected or structurally altered which is arranged or designed to be used for other than one or more of the following uses:

(a) Any use permitted in an "A" or "B" District.

(b) Two Family Dwelling.

(c) Farming and truck gardening but not the raising of rabbits, poultry, pets or livestock for commercial purposes or on a scale that would be objectionable because of noise or odor to surrounding residences.

(d) Nurseries but not including any sales offices.
(e) Water supply reservoirs, wells, towers, pumping stations, fire stations, gas and electric public utility regulator stations; however, the size and location of such stations.

(f) Telephone exchanges or substations but with no business office.

(g) Accessory building same as in an "A" District.

(5) "C2" District – Churches and Schools: In a "C" District, no building or land shall be used and no building shall be hereafter erected or structurally altered which is arranged or designed to be used for other than one or more of the following uses:

(a) Any use permitted in an "A" or "B" District.

(b) Churches (except temporary revivals).

(c) Public schools and educational institutions having a curriculum the same as is ordinarily given in public schools.

(6) "D" District – Apartment and Multi-Family Dwelling: In a "D" District, no building or land shall be used and no building shall be hereafter erected or structurally altered which is arranged or designed to be used for other than one or more of the following uses:

(a) Any use permitted in an "A", "B", or "C" District.

(b) Boarding or lodging houses.

(c) Hospitals and clinics excepting mental hospitals and animal hospitals and clinics.

(d) Hotels in which businesses may be conducted for the sole convenience of the occupants of the building and further provided that there shall be no entrance to such business except from the inside of the hotel building.

(e) Non-profit religious, educational, and philanthropic institutions except penal or mental institutions.

(f) Libraries and museums.

(g) Private clubs, lodges, fraternities, and sororities excepting those whose chief activity is a service customarily carried on as a business.

(h) Multiple dwellings, apartments, apartment houses, and group houses, but not including tourist courts, trailer camps, courts, or lodges.

(i) Accessory buildings and uses customarily incident to any of the above uses are permitted when not involving the conduct of a business other than incidental to the residential use of such property including private and storage garages provided that such accessory buildings, if detached from the main building, shall be located not less than sixty (60) feet from the front lot line, not less than thirty-one (31) feet from any other street line, and not less than six (6) feet from either side lot line.

(7) "E" District – Local Retail: In a "E" District, no building or land shall be used and no building shall be hereafter erected or structurally altered which is arranged or designed to be used for other than one or more of the following uses:

(a) Bank, office.

(b) Gasoline filling station.

(c) Restaurant or café.

(d) Retail pressing, dyeing, and cleaning shops.

(e) Retail drug, and similar retail stores, barber shops, beauty parlor, grocery store, and other shops for custom work or custom shops where articles are made to be sold at retail on the premises. Provided that no second hand goods store or yard shall be in a "E" District.

(f) Retail delivery station.

(g) Hotels.

(h) Mortuary

(i) Greenhouses, florist shops, nursery office.

(j) Bakery, laundry, washateria, candy manufacturing when employing not more than five (5) persons on the premises.

(k) Theaters, moving picture shows, and similar amusement places, provided such business shall be established unless there is provided by the owner of such

establishment, on the same lot or within three hundred (300) feet thereof a space for off street parking of sufficient area to accommodate one (1) automobile for every four (4) seats in the establishment.

(8) "F" District – Business: In a "F" District, no building or land shall be used and no building shall be hereafter erected or structurally altered which is arranged or designed to be used for other than one or more of the following uses:

- (a) Any use permitted in an "E" District.
- (b) Advertising places, bulletin, and billboards.
- (c) Amusement places.
- (d) Automobile sales and repair shops.
- (e) Bakeries and bottling works.
- (f) Blacksmith shop.
- (g) beer parlors, saloons, and places where beer and intoxicating liquors are sold for consumption.

- (h) Business or commercial school or dancing or music academy.
- (i) Building material storage yards.
- (j) Catering establishments.
- (k) Candy manufacturing.
- (l) Carpet cleaning.
- (m) Electric shop, electric plating, including armature winding, galvanizing.

- (n) Farm implements.
- (o) Garages, storage and repair.
- (p) Laundry, dyeing, and cleaning plants.
- (q) Machine Shop.
- (r) Motor Freight depot.
- (s) Ice cream manufacture, mild pasteurization, and bottling but not including the processing and manufacturing of other dairy products.

- (t) Ice plants.
- (u) Lumber yards.
- (v) Locker plants but not including slaughtering of animals
- (w) Painting shops.
- (x) Parking lots.
- (y) Photographer's studio.
- (z) Plumbing shop.
- (aa) Printing shops, newspaper printing, job printing.
- (bb) Restaurant.
- (cc) Sales and show rooms.
- (dd) Store or shop for the conduct of retail business.
- (ee) Shoe repair shop/
- (ff) Tire repair shop.
- (gg) Tin shops.
- (hh) Tourist or trailer camp, rout or lodge; however, that all other regulations of the "D" District shall be complied with.

- (ii) Second hand automobile sales yard, not including wrecking.
- (jj) Second hand goods store when entirely enclosed in a building.
- (kk) Storage warehouses.
- (ll) Wholesale houses, wholesale offices and sample rooms.
- (mm) Any use not included in any other District provided such use is not offensive or obnoxious by reason of the emission of odor, dust, smoke, gas fumes, noise, or vibration and provided that no kind of manufacture or treatment not listed above shall be permitted in an "F" District.

(9) "G" District – Industrial and Manufacturing: In a "G" District, no building or land shall be used and no building shall be hereafter erected or structurally altered which is arranged or designed to be used for other than one or more of the following uses:

- (a) Any use permitted in an "E", or "F" Districts.

(b) Acetylene storage and manufacture.
 (c) Brick and tile, concrete block manufacturing.
 (d) Brewery.
 (e) Bag cleaning.
 (f) Broom manufacturing.
 (g) Boiler works.
 (h) Creamery and dairy products manufacture and processing,
 wholesale milk plants.
 (i) Central mixing plant for concrete, plaster, or paving materials.
 (j) Cold storage plan.
 (k) Commercial amusement park, skating rinks.
 (l) Contractor's plant or storage yard.
 (m) Canning plants.
 (n) Coal yards.
 (o) Feed mill, flour mill.
 (p) Gasoline and lower volatile petroleum products.
 (q) Grain elevators.
 (r) Hospitals and clinics for animals, veterinary hospitals.
 (s) Iron, steel, brass and copper foundry, and fabrication plants.
 (t) Mattress manufacture.
 (u) Planning mill.
 (v) Paper box manufacture
 (w) Penal and correctional institutions.
 (x) Railroad roundhouse or shops.
 (y) Rock crusher.
 (z) Rolling mill.
 (aa) Stone monument works.
 (bb) Potato houses, vegetable packing plants.
 (cc) Wool scoring plant.
 (dd) Manufacturing and industrial operations of a similar nature to
 those listed above and not prohibited by the special use regulations of this ordinance or by other
 ordinances of the City.

(10) Special use regulations: No building or land shall be used and no building shall hereafter be erected or structurally altered which is arranged or designed for any of the following uses:

(a) Abattoir.
 (b) Butane, propane, etc. gas manufacture or storage that does not conform with Railroad Commission, Department of Transportation, and Fire Marshall regulations.
 (c) Cotton compress, cotton ginning, cotton warehouse, and cotton seed products manufacture.
 (d) Distillation of bones.
 (e) Fertilizer manufacture.
 (f) Fat rendering.
 (g) Manufacture or storage of explosives.
 (h) Garage, offal, or dead animals, reduction of dumping.
 (i) Glue manufacture
 (j) Livestock feeding yards and pens and animal slaughtering and
 packing.
 (k) Livestock auction barns.
 (l) Refining of petroleum products.
 (m) Tanning, curing, or storage of hides or skins.
 (n) Asphalt manufacturing or refining.
 (o) Automobile wrecking yards.
 (p) Chicken hatcheries.
 (q) Poultry houses, killing, dressing, and storage of kive poultry, egg
 breaking, and canning plant.

(r) Storage or bailing or rags, iron, or junk.

(s) Any other uses not listed in the afore mentioned districts which may be objectionable to or adversely affect the property within the city limits because of the emission of obnoxious or offensive odors, dust, gas, fumes, smoke, noise, or vibration.

(11) Non-conforming uses.

(a) Any use of property existing at the time of the passage of this ordinance, or subsequent amendments thereto, that does not conform to the regulations set forth in this ordinance shall be deemed a non-conforming use.

(b) The lawful use of land existing at the time of the passage of this ordinance although such use does not conform to the provisions of this ordinance, may be continued; however, if such non-conforming use is continued, any future use of said premises shall conform to the provisions of this ordinance.

(c) The lawful use of a building existing at the time of the passage of this ordinance may be continued, although the use does not conform to the provisions of this ordinance and such use may be extended throughout the building provided no structural alteration except those required by law or ordinance made thereto. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of a higher or more restricted classification, such use shall not thereafter be changed to a lower or less restricted classification.

(d) If a building occupied by a non-conforming use is destroyed by fire, explosion, or other cause, it may not be reconstructed or rebuilt except to conform to the requirements of this ordinance. However, nothing in this ordinance shall be construed to prevent restoration of a building destroyed or damaged to the extent of not more than sixty percent (60%) of its reasonable value by fire, explosion, acts of God, or other casualty, not at the time of such partial destruction.

(e) In the event that a non-conforming use of any building or land is discontinued for a period of one (1) year, any subsequent use of said building or land shall conform to the use permitted in the District in which it is located.

(f) The operation of any of the activities, business, or uses listed in § 150.30.e.(8) is hereby declared to be a nuisance and is subject to abatement as such.

f. Front Yard Regulations:

(1) In the "A", "B", "C", and "D" Districts, there shall be a front yard having a depth of not less than twenty-five (25) feet measured from the front property line of the lot to the front of the building, covered porch or terrace, or attached accessory building; however, if fifty percent (50%) or more of the property on the same side of the street within the block, is improved with building, the required front yard depth need not exceed the average front yard depth of the existing building.

(2) In the "E" District, there shall be a front yard having a depth of not less than twenty-five (25) feet measured from the front property line of the lot to the front of the building, covered porch or terrace, or attached accessory building. On corner lots, the required front yard shall be provided on the street facing the front of the house.

(3) In the "F" and "G" Districts, no front yard is required unless the building is erected or structurally altered for dwelling purposes in which event there shall be a front yard having a depth of not less than twenty-five (25) feet, measured from the front property line of the lot to the front of the building, covered porch or terrace, or attached accessory building with further provision that the front building line of the street and on corner lots the required setbacks will be provided on the street that faces the front of the building.

(4) Open carports that are built on frontage may be within ten (10) feet of the curb; however, if it is necessary to remove for repair or maintenance of lines, the owner is responsible for the move.

g. Rear Yard Regulations:

(1) In all Districts where buildings are erected or structurally altered for dwelling purposes, there shall be a rear yard having a depth of not less than twenty-five (25) feet.

(2) In the "F" and "G" Districts, when the property is not used for dwelling purposes and when not abutting on the rear of a dwelling district, no rear yard shall be required. If

abutting on the rear yard of a dwelling district, there shall be a rear yard of not less than twenty (20) feet.

(3) In computing the required depth of a rear yard for any building where such rear yard abuts an alley, the depth of said rear yard measures from the center of the alley.

(4) An accessory building may occupy no more than fifty percent (50%) of the minimum required rear yard.

h. Side Yard Regulations:

(1) In the "A", "B", "C", and "D" Districts and in all other Districts where a building is erected or structurally altered for dwelling, there shall be two side yards, one on each side of the building. The combined width of the two yards shall be not less than twenty percent (20%) of the width of the lot, provided that the combined width need not exceed twelve (12) feet and that in no case shall either side yard be less than six (6) feet in width.

(2) In "E", "F", and "G" Districts, if the property is not used for dwelling purposes, no side yard is required unless the lot abuts upon the side of a lot of a dwelling district, in which case a side yard of not less than six (6) feet shall be provided on the side abutting the dwelling district.

i. Lot Area Regulations: All present lots as of the time of this ordinance are as recorded in the Zoning Map. All future lots, new subdivisions, will be platted at a minimum of six thousand (6,000) square feet.

j. Prohibiting Obstruction of View: On every lot in each District, no wall, fence, or other structure shall be erected and no hedge, tree, shrub, or other growth of any kind shall be maintained that obstructs, prevents, or blocks the view and safe travel of and on sidewalks, roads, and/or streets. The City retains the right of way to place traffic control signs or information signs that are unobstructed. A clear view must be allowed at each intersection to allow safe travel and crossing and shall be determined and enforced by the Police Department of the City of Bovina.

k. Mobile Home Park:

(1) Storage building shall only be a minimum of 200 cu. Ft. to a maximum of 800 cu. Ft in size, must be face with a fire resistant durable material, must be a minimum of twenty-five (25) feet from any street, must be a minimum of six (6) feet from any property line, and must be secured to the ground to prevent movement.

(2) The owner of the Mobile Home Park shall be responsible for maintenance in such a manner as to prevent the growth of weeds or the propagation of insects, rodents, or other hazards. All vehicle paths and pedestrian pathways shall be maintained to provide a clean, healthy living area.

(3) Fire resistant skirting with the necessary vents, screens, and/or openings shall be required on all mobile homes and shall be installed within sixty (60) days after emplacement of the mobile home.

(4) Skirting, porches, awnings, and other additions, when installed, shall be maintained in good repair.

(5) The use of vehicle tires to hold down the roof is specifically prohibited and shall not be grandfathered.

(6) The use of space immediately underneath a mobile home for storage shall be permitted only under the following conditions:

(a) The storage area shall have a base of impervious material.

(b) Stored items shall not interfere with underneath inspection of the mobile home.

(c) All material must meet with approval of the inspector.

(7) All mobile home park spaces shall be:

(a) A minimum of thirty-two feet (32") wide and one hundred feet (100") deep and a minimum of thirty two hundred (3,200) square feet.

(b) A minimum of eighteen feet (18") between homes.

(c) A minimum of two (2) off street parking places with improved hard surfacing.

(d) A minimum of six feet (6") from property line.

(e) A minimum of twenty-five feet (25") from any street line.

§ 150.35. Fencing.

a. It shall be unlawful to construct or build a fence on any block, lot, or tract of land within the City without first obtaining a written permit from the building inspector.

b. Fence materials shall be as follows:

(1) Wire or mesh material or other suitable for construction of fences, approved by the building inspector.

(2) Wood, block, brick, or other materials, approved by the building inspector.

c. No fence shall be constructed on any platted residential or commercial lot which shall obstruct the right-of-way or safety on any public street within the City.

d. No fence shall be erected on any residential lot which will exceed seven feet (7') in height. Heights of all fences will be determined by the building inspector at the time the permit is applied.

§ 150.36. Weeds, Grass, Trash, and/or Rubbish.

150.36.1 Application of division

a. No person may allow weeds or grass to grow in excess of 10 inches upon property within the city limits.

150.36.2 Vacant properties.

No person may allow weeds or grass to grow in excess of 10 inches within 50 feet of any adjoining right-of-way or property line upon properties five acres or larger in size. Properties of one acre or larger in size must be cleared of any brush within 20 feet of any adjoining right-of-way or property line.

150.36.3 Lots and properties with structures.

a. No person may allow weeds or grass to grow in excess of 10 inches upon lots or properties that have structures upon them. Lots or properties that have structures upon them, must be cleared of all brush.

b. No person may allow weeds or grass to grow in excess of 10 inches within 50 feet of any adjoining right-of-way or property line upon properties five acres or larger in size. No person may allow weeds or grass to grow in excess of 10 inches within 100 feet of any structure which is located on a property of five acres or larger in size. Properties of one acre or larger in size must be cleared of any brush within 20 feet of any adjoining right-of-way or property line.

c. Notwithstanding the requirements set forth in section 150.36.3b, no person may allow weeds or grass to grow in excess of 10 inches within 100 feet of the property line of an adjoining property upon which an occupied residence is located. This section applies only to properties five acres or larger in size.

150.36.4 Property adjoining public right-of-way.

Any right-of-way adjoining private property within the city must be maintained by the owner, occupant, lessee or person in control of such adjoining private property. Any growth of weeds and grass may not exceed 10 inches in height and all brush must be cleared from such right-of-way.

150.36.5 Defense to violations; nature of offense.

a. It shall be an affirmative defense to any violation of section 150.36.4 that the adjoining right-of-way had not been used by and is unusable by the owner, occupant, lessee or person in control of the adjoining private property.

b. A person commits an offense under section 150.36.4 if he is criminally negligent.

150.36.6 Notice of violation.

An owner, occupant, lessee or person in control of property in the city that does not comply with any of the requirements set forth in sections 150.36.1, 150.36.2, 150.36.3, 150.36.4 will be given notice of said violation and given seven days to comply with the requirements.

a. The notice must be given:

a. Personally to the owner, occupant, lessee or person in control in writing;

b. By letter addressed to the owner, occupant, lessee or person in control at their address as recorded in the Parmer County Tax office records in which the property is located; or

c. If personal service cannot be obtained:

i. By publication in the official newspaper of the city at least once;

ii. By posting the notice on or near the front door of each building on the property to which the violation relates; or

iii. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

b. If a notice mailed to an owner, occupant, lessee or person in control in accordance with subsection (a) is returned as “refused” or “unclaimed” by the United States Postal Service, the validity of the notice is not affected, and the notice is considered as delivered.

c. The city may inform the owner, occupant, lessee or person in control by regular mail and a posting on the property that if the owner, occupant, lessee or person in control commits another violation of the same kind or nature on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the expense of the owner and assess the expense against the property. If a violation covered by a notice under this section occurs within a one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city without notice may take any action permitted by section 150.36.7.

d. The notice will contain:

a. An identification of the property;

b. A description of the violation that is present on the property.

150.36.7 Enforcement

If the owner, occupant, lessee or person in control of property in the city does not comply with the requirements within seven days after receiving the notice of violation the city will either:

1. Refer the property owner, occupant, lessee or person in control to municipal court for criminal prosecution; or

2. Pay for the work done or improvements made and charge the expenses to the owner of the property.

150.36.8 Abatement of weeds without notice.

The city may abate, without notice, weeds or grass:

1. That have grown higher than 48 inches; and

2. Are an immediate danger to the health, life, or safety of any person.

150.36.9 Notice of Abatement.

Not later than the tenth day after the date the city abates weeds or grass pursuant to section 150.36.8 the city will give notice to the property owner of the abatement.

a. The notice will be given:

a. Personally to the owner in writing;

b. By letter addressed to owner at the owner’s post office address; or

c. If personal service cannot be obtained or the owner’s post office address; or

i. By publication at least twice within ten consecutive days;

ii. By posting the notice on or near the front door of each building on the property to which the violation relates.

b. The notice will contain:

a. An identification, which is not required to be a legal description, or the property;

b. A description of the violation of the ordinance that occurred on the property;

c. A statement that the city abated the weeds, grass, and

d. An explanation of the property owner’s right to request a hearing about the city’s abatement.

150.36.10 Hearing.

The City of Bovina will conduct a public hearing on the city’s abatement of the weeds or grass pursuant to section 150.36.8 if, not later than the thirtieth day after the date of the abatement, the property owner files with the city a written request for a hearing. The City of Bovina will conduct a public hearing not later than the twentieth day after the date a request for a hearing is filed. The property owner may testify or present any witnesses or written information relating to the city’s abatement.

150.36.11 Costs.

The city may assess expenses incurred in the abatement against the property on which the work is done or improvements made.

§ 150.40. Enforcement: It shall be the duty of the City Building Inspector to supervise the enforcement of this ordinance, if not otherwise delegated to another City official in this ordinance, and if any violation thereof shall come to the attention of such officer it shall be his duty to file a sworn complaint alleging such violation in the Municipal Court.

§ 150.50. Zoning Map: The Zoning Map of the City of Bovina, which is made a part of this ordinance, shall be considered as much a part of the same.

§ 150.55. 2003 Edition of the International Residential Code: The 2003 Edition of the International Residential Code is adopted, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress in the City; providing for the issuance of permits and collection of fees thereof; repealing any part of the Code in conflict therewith.

§ 150.60. Building Permits.

a. Application:

(1) Permit: No person, firm, or corporation shall erect, construct, enlarge, alter, move, improve, convert, or demolish any building or structure in the city or cause the same to be done without first obtaining a separate building permit for each such building or structure from the City.

(2) Application: To obtain a permit, the applicant shall first file one application in writing on a form furnished by the City for the purpose. Every application shall:

(a) Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;

(b) Show the use or occupancy of all parts of the building;

(c) Be accompanied by plans and specifications as required;

(d) Give such other information as reasonably may be required.

(3) Plans and Specifications: Each applicant for a permit should be accompanied by a set of plans and specifications.

EXCEPTION: Plans and specifications need not be submitted or required by the City for small and unimportant work when authorized by the Building Inspector.

b. Inspection:

(1) Issuance. The application plans and specifications filed by the applicant for a permit shall be checked by the Building Inspector. If the Building Inspector is satisfied that the work described in the application for the permit and plans filed conform to the requirements of this ordinance and other pertinent laws, he shall issue the permit to the applicant, by endorsing in writing "approved". The approved plans may not be changed, modified, or altered without authorization of the Building Inspector, and all work shall be done in accordance with the approved plans.

(2) Retention of Plans. All applications and plans approved or otherwise recorded shall be retained by the Building Inspector for a minimum of ninety (90) days or for as long as the work is in progress, whichever is longer.

c. Expiration. Every permit issued by the City is good for sixty (60) days. If the work cannot be completed within the 60 days time limit an extension of up to 60 days can be approved after inspecting the work completed. Following the 60 days permit period and the extension of 60 days a new permit must be obtained as if a new permit was requested.

§ 150.65. Substandard Buildings, Structures, or Vegetation. All substandard buildings, structures, or vegetation within the terms of this section which shall constitute a menace to health, morals, safety, or general welfare of occupants or the public are declared to be public nuisances and shall be ordered to be vacated, repaired, or demolished as provided in this section.

a. All buildings, structures, or vegetation which have any or all of the following defects or lack of facilities shall be deemed substandard buildings:

(1) Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and properly connected to an approved water sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions;

(2) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower, and lavatory shall be located in a room affording privacy to the user, and such room shall have a minimum floor space of thirty (30) square feet;

(3) Every dwelling unit shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both hot and cold water. All water shall be supplied through an approved pipe distribution system connected to the City water supply.

(4) Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, or shower at a temperature of not less than one hundred twenty (120) degrees Fahrenheit.

(5) All buildings, structures, or vegetation that have become deteriorated through natural causes or by damages through exposure to the elements, especially wind, hail or rain, or damage through fire to the extent that the roof, windows, doors, or portions of the house, building, or structure which protect from the weather will no longer reasonably protect from weather. This includes trees or vegetation, that have been damaged or have died for any cause, which may potentially cause damage to any private or public property or may endanger any person's life, limb, eye, or other injury;

(6) All buildings, structures, or vegetation which constitute a fire hazards, as determined by the City Fire Marshall or City Building Inspector;

(7) All buildings, structures, or vegetation which are so structurally deteriorated that they are in danger of collapse or which cannot be expected to withstand the reasonably anticipated storms or winds;

(8) All buildings, structures, or vegetation not constructed in accordance and conformity with the § 150.00. Zoning and Planning;

(9) All buildings, structures, or vegetation so constructed or permitted to be so constructed as to constitute a menace to health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonably calculated to spread disease, and including such conditions hazardous to safety as inadequate bracing or the use of deteriorated materials.

b. Standards for Ordering Repair, Vacation, or Demolition. The following standards may be followed in substance by the City Manager, Building Inspector, or Fire Marshall;

(1) If the substandard buildings, structures, or vegetation can reasonably be repaired so that it will no longer be in a condition which is in violation of the terms of this section, it shall be ordered repaired;

(2) If the substandard buildings, structures, or vegetation is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants or the public, it shall be ordered to be vacated; and/or

(3) In any case where a substandard buildings, structures, or vegetation is fifty percent (50%) damaged or decayed, it shall be demolished, and in all cases a building cannot be repaired so that its existence will no longer be in violation of the terms of this section, it shall be demolished.

c. Notice to Abate Substandard Buildings, Structures, or Vegetation. Where an emergency does not exist, the following steps may be taken by the City Manager, Building Inspector, or Fire Marshall in the condemnation of a substandard buildings, structures, or vegetation;

(1) When it shall come to the notice of the City Manager that a buildings, structures, or vegetation in the City may be substandard under the terms of this section, the City Manager shall request the building inspector or Fire Marshall to inspect such buildings, structures, or vegetation and to present a report of such inspection. If the City Manager determines from such report and/or other evidence as may be afforded to him that such building may be substandard,

then the City Manager may cite the owner of such buildings, structures, or vegetation, or his authorized agent or representative, to appear and show cause why such buildings, structures, or vegetation should not be declared to be a substandard buildings, structures, or vegetation, and why it should not be ordered to vacate, repair, or destroy such buildings, structures, or vegetation;

(2) The date of such hearing and any subsequent appeal shall be in accordance with § 1.100. a. (2) of the Code.

d. Special Procedures for Emergencies.

(1) Emergency Measures. When it shall appear that a buildings, structures, or vegetation is substandard under the terms of this section, and that such building, structure, or vegetation or the manner of its use constitutes an immediate and serious danger to life, limb, or property, the condition shall be deemed a condition justifying the use of emergency measures, the City Manager may order any of the following emergency measures to be taken;

(a) Immediate vacation of such buildings, structures, or vegetation or adjoining buildings, structures, or vegetation;

(b) Vacation of the danger area around such buildings, structures, or vegetation;

(c) Such emergency shoring-up and bracing of walls, roofs, and supports as are required to render such buildings, structures, or vegetation safe;

(d) The destruction of such walls, roofs, and supports or the entire structure or so much thereof as cannot be braced or made secure with safety; and/or

(e) The posting of notices on or near such buildings, structures, or vegetation, notifying the public of such orders, and ordering all persons to keep out of or away from such buildings, structures, or vegetation and the areas of danger surrounding it.

(2) Notice and Order. When any of the emergency measures are ordered to be taken, notice of such order shall be given as follows:

(a) Such order shall be directed to the owner of such substandard buildings, structures, or vegetation or his authorized representative, if the same shall be known;

(b) In the event that such notification would create such delay as would materially increase the danger to life, limb, eye, or property, then such notice need not be given.

e. Action by City to Alleviate Nuisance. In the event that notification is unnecessary or in the event notice is given and the owner or his representative shall refuse or fail to carry out the orders of the notice or shall fail to carry out such order satisfactorily, then, in either such event, the City may proceed to carry out such orders, either by private contract or through an agency of the City, and the cost thus incurred shall constitute a valid lien against the property so repaired.

f. Filing Statement of Expense(s); Lien.

(1) Whenever the City shall have performed any work or paid any necessary expense in connection with any work done under this section, whether the same be emergency measures or under normal procedure, it shall be the duty of the City Manager to immediately prepare and deliver or mail to the owner of the substandard buildings, structures, or vegetation an itemized statement in the form of an affidavit, duly sworn to, of all such work performed and all costs and expenses incurred and paid by the City in connection therewith. Said statement shall be sent to the owner of said property if his true address is known; if not, then to the owner of record according to the last official tax rolls of the City at the address carried in connection therewith. Such affidavit, among other things and provisions, shall contain the following;

(a) Name and address of owner, and name and address of agent of property, if known, and if unknown recite the fact;

(b) Description of the property sufficient to identify same, and where property has been subdivided, a description by lot and block number of any particular subdivision shall be sufficient, or the description as per the revised map of the City;

(c) Statement of the action of the City Manager;

(d) Itemized statement of the work done and performed, together with the cost thereof opposite each item; and

(e) Statement of payment made by the City to other parties, and to whom made, or reasonable charges by any concerned City Department.

(2) In accordance with § 4.70 of the Code and upon delivery or mailing of the statement and affidavit provided for above, the City shall be entitled to the payment of the

aggregate amount so expended, or reasonable charges for City work, or costs paid, as therein set forth. Should the owner fail or refuse to pay the amount due within thirty (30) days thereafter, the affidavit containing the information as set out herein above, signed by the City Manager, shall be filed with the County Clerk of Parmer County, Texas. Such statement, when filed, shall constitute a lien upon the property on which the expense was incurred, second to tax liens and liens for street improvements.

g. Refusal to Comply with Order(s): Interference with Enforcement. Any person who shall willfully refuse or fail to comply with an order concerning a substandard buildings, structures, or vegetation under the terms of this section or who shall enter a building or structure which has been ordered vacated under the terms of this section or who shall enter an area around such buildings, structures, or vegetation that has been declared to be dangerous and notice of which declaration shall have been posted and any person who shall interfere with or hinder the vacation, repair, or demolition of any buildings, structures, or vegetation under the terms of this section shall be deemed guilty of a misdemeanor. In case the owner or occupant of any substandard buildings, structures, or vegetation ordered vacated, repaired, or demolished under the terms of this section shall be a corporation, and shall violate any provisions of this section, the president, vice-president, secretary or treasurer of such corporation, or any manager, agent, or employee of such corporation, shall be also severally liable for the penalties herein provided.

h. Resort to the Courts. Nothing of this section shall be construed as abridging the right of the City of Bovina, Texas to resort to the courts of this state for the enforcement of this section or of the rights of any owner to resort to the courts of this state in an attempt to enjoin the enforcement of this section.

i. Liability of City for Action Under This Section. Neither the City nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this section.

j. Penalty for Violation(s). It shall be unlawful for any person, corporation, or other entity to rent, offer for rent, or permit occupancy by human beings of any buildings, structures, or vegetation having been declared substandard under this section, and anyone found guilty of such offense shall be guilty of a misdemeanor and punished by fine, and each and every day's violation shall constitute a separate and distinct offense.

§ 150.70. Certificate of Occupancy and Compliance:

a. No building thereafter erected or structurally altered shall be used, occupied, or changed in use until a certificate of occupancy and compliance has been issued by the Code Enforcement Officer stating that the building or proposed use of the building and/or premises complies with the building laws and provisions of this ordinance.

b. Certificates of occupancy and compliance shall be issued within ten (10) days after the erection of structural alterations of such building having been completed in conformity with the laws and provisions of this regulation. A record of all certificates shall be kept on file in the Building Inspectors office and copies shall be furnished on request to any person having a proprietary of tenancy interest in the building affected. Mobile home/trailer over 20 years old may not be allowed or authorized to be moved into the City or relocated within the city. Mobile homes/trailers must be inspected prior to receiving an application of Certificate of Occupancy. A title must be provided and search performed in order to prove that the application for occupancy be in the owners name and the age of the trailer. Following set up of the mobile home/trailer a final inspection will be done in order to prove compliance with City Codes prior to the issuance of the Certificate of Occupancy.

c. Continued Occupancy: Nothing in this subsection shall prevent the continuance of the present occupancy and use of any now existing buildings except as may be specifically prescribed by this Code or as may be necessary of the safety of life and property.

d. Certificates of Occupancy Refused: It shall be the duty of the Building Inspector to refuse to issue such certificate of occupancy if it be found that the construction, arrangement, or equipment on the premises is not in conformity with the requirement of this ordinance for building use as proposed by applicant as above-mentioned ordinance.

§ 150.80. Subdivisions.

a. Submission of Plats: From and after the date of adoption, these regulations shall govern all subdivisions of land within the corporate limits of the City of Bovina to include land within a distance of one-half (1/2) miles from the city limits in all directions. Any owner of land within the limits of said subdivision jurisdiction wishing to subdivide land shall submit to the Planning Commission a plat of the subdivision which shall conform to the minimum requirement set forth in these regulations. No plat of a subdivision lying within such territory of a part thereof shall be filed or recorded in the office of the County Clerk, and no subdividers may proceed with improvements in said subdivision until such subdivision plat shall have been approved by the City Council and signed by the Mayor.

b. Procedure for Plat Approval: In order to prevent hardship on the subdivider through possible required plat revision, a preliminary plat of the proposed subdivision at a scale not smaller than two hundred (200) feet to the inch shall be submitted to the City's Planning Commission for approval before the preparation of the final plat. Six (6) copies of such plat, each copy bearing the designation "Preliminary Plat", must be filed in the office of the City Secretary at least ten (10) days prior to the meeting at which the plat is to be considered and will contain the following information:

(1) The subdivision name (which must not be duplicated in any manner of an existing subdivision name), the names and addresses of the owners, and of the designer of the plat who shall be a registered engineer or registered surveyor.

(2) Date, approximate north point, and scale.

(3) The location of existing and platted property lines, streets, buildings, water courses, railroads, sewers, bridges, culverts, drainpipes, water mains, any public utility easements, and any other easement both on the adjoining land and immediate adjacent subdivisions and property lines.

(4) The names, locations, widths, and other dimensions of proposed streets, alleys, easements, parks, reservation, blocks, lot lines, and building lines. The names of streets shall conform whenever possible to existing street names and lots shall be numbered in a systematic arrangement.

(5) Topography of the entire plat showing contour intervals.

(6) If the proposed subdivision does not lie within the force and effect of an existing District, the preliminary plat shall be accompanied by a plan indicating the proposed use of the plots.

(7) Prior to the Planning Commission's consideration of the preliminary plat, the subdivider shall transmit a copy of the proposed plat to the electric company, gas company, water department, school administration, and any other interested municipal or county department for review and recommendation in relation to the specific service problems. The Planning Commission shall recommend approval to the City Council within sixty (60) days of the time the preliminary plat is submitted. However, recommended approval of the preliminary plat shall not be deemed final acceptance but rather an expression of approval of the layout as submitted on the preliminary plat and shall serve as a recommendation to the City Council for their final approval, subject to the stated conditions.

c. Final Plat Approval.

(1) Two (2) copies of the final plat, together with a reproducible tracing, the cost of the reproducible tracing to be refunded to the subdivider upon presentation to the City of Bovina of a receipt from the reproducing company, shall be submitted to the City Council within six (6) months of the date of the approval of the preliminary plat of such approval shall become null and void unless extension of time is applied for and granted by the Planning Commission. A set of proposed construction plans and specifications for streets, water, and sewer improvements shall be prepared and submitted to the City for review at least ten (10) days prior to the meeting of the City Council which the plat is to be considered. The final shall be drawn at the scale of one (1) inch equals two hundred feet (200') on sheets 18" x 18" and where necessary may be several streets accompanied by an index sheet showing the entire subdivision. The final plat shall show or be accompanied by the following information:

(a) The final plat shall conform substantially to the preliminary plat, as approved, and if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time; provided, however, that

such portion shall conform to all requirements of these regulations. In cases where a final plat is submitted for approval and where no change from the approved preliminary plat has been made, it may be submitted directly to the City for approval. When it is not necessary for the Planning Commission to consider the approval of a final plat because no change has been made from the preliminary plat, such final plat shall be recommended for final approval to the City. The City shall not consider final approval of said plat unless said plat has been delivered to the City Manager on or before the ten (10) immediately preceding the regular meeting of the City Council.

(b) An accurate boundary survey of the property, certified by a licensed surveyor of registered professional engineer, with bearing and distances, referenced to survey lines and established subdivisions, and showing pertinent data concerning property immediately adjacent thereto in dashed lines.

(c) Right-of-way lines of streets and alleys; property line of residential lots, parks, and other sites, with accurate dimensions, bearing deflection angles, and radii, arcs, and central angles of all curves.

(d) Name and right-of-way width of each street or other right-of-way.

(e) Location, dimensions, and purposes of any easement.

(f) Purposes of which sites other than residential lots are dedicated or reserved.

(g) The location of minimum building set-back lines from all streets on lots and other sites.

(h) A certificate of dedication of all streets, alleys, parks, easements, and other land intended for public use, signed by the owner or owners and by all other persons, firms, or corporations owning an interest in the property subdivided and platted, and shall be acknowledged in the manner prescribed by law of the State of Texas for conveyances of real property. A certified copy of all deed restrictions filed for record on Parmer County shall be furnished to the City of Bovina at the time of recording same.

(i) Receipts indicating that current taxes have been paid on the property to be subdivided and a certificate that no delinquent taxes exist against the property.

(j) All lots in subdivision shall be numbered in numerical order, including block numbers.

(k) A waiver of claim for damages against the City of Bovina occasioned by the establishment of grades or alteration of the surface of any portion of existing streets and alleys to conform to the grades established in the subdivision.

(l) Surveyor's Certificate, produced on the plat according to the following form:

KNOW ALL MEN BY THESE PRESENTS:

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with § 150.80 of the § 150.00. Zoning and Planning of the Bovina City Code. Of the City of Bovina, Texas.

Licensed Land Surveyor of Registered P. E.

(m) Certificate of Approval by the City Council, to be place on plat as follows:

Approved this _____ day of _____, 20__ by the City Council of the City of Bovina, Texas.

Mayor, City of Bovina, Texas

(n) Certificate of Improvement: A registered engineer shall furnish the City Council with a written certification stating that all improvements which have been completed prior to final approval have been satisfactorily completed in accordance with all City plans and specifications for such improvements and, if all necessary improvements have not been completed, shall further certify that a sufficient amount of security has been deposited with or a surety bond furnished to the City to secure the completion of all those improvements so required which are complete. When a surety bond has been furnished to the City in lieu of any or all of the required improvements, it shall be delivered to the City Attorney for approval. The surety bond shall have attached thereto a copy of the contract for such improvements and such other information and data necessary to determine the validity and enforceability of such bond. When the bond has been examined and approved, the City Attorney shall certify to the City Council in writing that the surety bond is valid and enforceable as regards all improvements required by this ordinance still incomplete and for which cash deposit has not been made.

(2) Upon approval of the final plat, the reproducible tracing and one copy shall be retained in the files of the City and one copy shall be filed with the County Clerk, Parmer County, Texas by the developer.

§ 150.85 Spicola Subdivision requirements.

The following restrictions shall be consider permitted exceptions under Article 6 of the Farm and Ranch Contract and shall be contained in the deed from Seller to Buyer and are to become effective immediately upon the execution of the deed from Seller to Buyer and shall run with the land and shall be binding on all persons claiming an interest in the Property. These restrictions shall remain in effect in perpetuity.

1. The Property shall be not be divided into multiple lots or tracts, and the Property may not be deeded or leased other than as one tract which composes the entire Property.

2. The Property shall be not be used except for residential purpose, and no structure shall be erected, altered, place, or permitted to remain on the Property other than one detached single family dwelling, except that, in addition to the residence, outbuilding consisting of bar, horse stables, and/or a detached private garage may be placed on the Property.

3. All buildings will be subject to approval by the City of Bovina and must require a building permit from the City of Bovina. The City Code for building inside the city limits will apply to structures built or moved in on the property. Except as provided below, no structure of a temporary character (including but not limited to, tents, campers, trailers, and shacks) shall be erected or allowed to remain on the property except during the erection of a dwelling on said property, in which even they shall not be used as a residence or dwelling during the period of erection, and shall be removed immediately upon the completion of the main dwelling structure. No mobile home may be placed or maintained on the property unless such mobile home is less than 2 years old at the time the mobile home is placed on the Property. If a mobile home or modular home is placed on the property it must be made permanent by placing it on a permanent foundation and all mobile equipment, tires, tongue, etc. must be removed. The standards to which the home is placed on the property should be the same qualification that FHA & VA standards would require in addition to relinquishing the mobile home title. Only one such mobile home may be placed or maintained on the property at any one time, and no more than one family dwelling in total (whether mobile home or permanent residence) may be located on the property at any one time.

4. All construction shall meet applicable building codes. To the extent that any provision of these restrictions is prohibited by building codes, rules, regulations, laws, or statutes for any reason, such provision shall be effective to the extent not so prohibited, and such prohibition shall not affect any other provision of these covenants.

5. The property may not be used in whole or in part for the commercial feeding or raising of animals, livestock, or poultry.

6. No portion of the Property shall be used or maintained as a dumping ground for rubbish. Trash, word piles waste, brush piles, garbage, junk, scrap metal, old cars, and similar aesthetically unpleasing items shall not be placed, kept, or maintained on the Property.

7. No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done on the Property which may be or may become an annoyance or nuisance to the neighborhood.

8. Enforcement shall be proceedings at law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Any person aggrieved by such violation may bring an action against the party in violation of these covenants, and shall be entitled to recover attorney's fees for their successful prosecution of such actions.

§ 150.90. General Requirements for Subdivision Design.

a. Streets:

(1) The width of main thoroughfares and traffic streets shall be determined by the City Planning Commission.

(2) No street dedication shall be less than fifty-seven (57) feet wide, and paving shall not be less than thirty-seven (37) feet from back to back of curbs when paved. All new streets shall be continuations of existing streets where possible, at the same or greater width and having the same names. Where continuation of a street is not possible, there shall be a minimum offset of one hundred twenty-five feet (125').

(3) Dead end streets may be platted where land adjoins property not subdivided, in which case the streets shall be carried to the boundaries thereof. In the instance where dead end streets are otherwise necessary, a cul-de-sac with minimum radius of forty feet (40') shall be provided.

b. Street Intersections. Insofar as practical, acute angles at street intersection shall be avoided. Where an acute angle of less than seventy-five degrees (75°) occurs between streets at their intersection, the Planning Commission may require the property lines to be rounded or otherwise set back to permit curb construction of desirable radius without curtaining the sidewalk at the street corner to less than normal width. All sidewalk connections with the curb/street shall have wheelchair access provided.

c. Curves in Streets. Where a deflection angle of more than ten degrees (10°) in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On all streets, the center line radius of curves shall not be less than three hundred feet (300'), except in special cases which shall be approved by the Planning Commission.

(1) Street shall be platted to allow two (2) tiers of lots with an alley between. Intersecting cross streets may not be more than twelve hundred (1200) feet apart nor less than three hundred (300) feet apart.

(2) In blocks over one thousand (1,000) feet in length, the Planning Commission may require a public cross walk of not less than a ten (10) foot right-of-way and having not less than a six (6) foot concrete walk.

(3) Streets shall be platted with appropriate regard to the County Roads, lake areas, and other topographical features lending themselves to attractive treatment.

(4) Where plats are presented for approval which adjoin unplatted property, the owner of the proposed subdivision shall provide his pro rata part of boundary streets.

d. Alleys, Reserve Strips. Alleys shall be laid in the rear of lots fronting on adjoining streets. The minimum width of an alley shall not be less than twenty feet (20') and shall be graded and leveled. No subdivision showing a reserve strip of land controlling the access to public ways of adjoining properties will be approved.

e. Lots and Blocks.

(1) In general, lots shall conform in width, depth, and area to the pattern already established in the adjacent areas, having due regard to the character of the neighborhood, its particular suitability for development of residential purposes and also taking into consideration the natural topography of the ground, drainage, sanitary sewage facilities, and the proposed layout of the streets.

(2) It shall be unlawful for the Code Enforcement Officer to issue a permit for any residence, in a zoned residential area, utilizing as a building site the rear portion of any corner lot, or the rear portion of any corner lot merged with a portion of any adjoining lot, to produce plottage of sufficient size to meet the minimum requirements for a permissible residential use.

§ 150.100. Improvement Requirements.

a. Final Plat Approval Requirements.

(1) Before the final plat has been approved and before any utilities are installed, a Registered Engineer shall complete the preliminary engineering survey to determine the requirements for the utility, cur, gutter, and paving installations to be installed in the proposed subdivision or part of the subdivision to which final plat approval is desired.

(2) The engineering survey shall include an estimate of the proposed cost, except when subdivider desires to complete work prior to final approval. These costs will be based upon estimated quantities, as determined by the engineer from their preliminary survey and study using the lowest unit price received for each phase of construction as established by formal or informal proposals from at least two (2) outside contractors at the time the work is to be done.

b. Survey Monuments.

(1) Permanent concrete monuments, not less than six (6) inches in diameter, and not less than eighteen (18) inches long, and having a copper or brass bolt set in the concrete with the survey point being clearly marked by punch mark or cross, shall be set at the outside perimeter corners of angle points of subdivision.

(2) If terrain is such that the corner of angle monuments on the same azimuth are not visible from each other, an intermediate monument, or monuments, shall be set so that two (2) or more monuments on the same azimuth are visible from each other.

(3) Monuments shall be set at angle points and at the beginning and end of all curves on boundary streets, alleys, and interior streets.

(4) The monuments shall be set approximately six (6) inches below the finished grade of the ground after any necessary area of other grading work is completed.

(5) A three quarter inch ($\frac{3}{4}$ ") iron pipe not less than eighteen inches (18") long shall be set at all block and alley corners, the pipe shall be driven flush with the ground, and a one inch by two inch (1" x 2") guard stake driven by the pipe.

(6) All monuments and pipes must be indicated on the final plat along with the azimuth and distance between monuments or pipes.

c. Bond or Cash Escrow in Lieu. In lieu of the completion or installation of any or all of the improvement requirements, and before issuance of a building permit, the City may accept a cash deposit or surety bond to secure the City the actual cost plus ten percent (10%) of cost improvements as estimated by the engineer. All bonds must be made payable to the City of Bovina by a company legally authorized to do business in the State of Texas, and approved by the City Attorney of Bovina.

d. Affidavit of Release. The subdivider shall furnish the City with an affidavit of complete release from the contractor, stating that all costs incurred against the required improvements have been paid by the same, and also that costs of improvements shall never constitute a liability against the City or individual property owner.

e. General Requirements.

(1) In addition to the water and sewer main extensions, a tap charge will be required for water and sewer in the amounts set by the City Manager. These amounts to be paid by the developer at the time the application is made for the tap. In addition to these amounts, the meter deposit shall be required.

(2) The developer shall furnish a necessary costs of engineering and inspection of construction.

(3) No building permits shall be issued and the City shall withhold all City improvements of whatsoever nature including sewerage and water service from any subdivision or re-subdivision covered by this ordinance until:

(a) Such time as the developer and/or owner has fully completed and paid for the improvements required to be made by the terms of this ordinance, including the installation of streets with proper paving, curb and gutter, drainage structures, storm sewers, alleys, fire hydrants, water, and sanitary sewer mains, all according to the specifications of the City; or until such time as

(b) An escrow deposit of bond sufficient to pay for the cost plus ten percent (10%) of such improvements, as determined by the City Manager computed on a private

commercial rate bases, has been made with the City Secretary , accompanied by an agreement signed by the developer and/or authorizing the City to make such improvements at prevailing private commercial rates or have the same made by a private contractor and pay for the same out of the escrow deposit.

f. The City will:

(1) Make all water and sewer service taps at their regular charge for such service.

(a) The water and sewer lines as completed will become the property of the City of Bovina, and the developer or builder shall have no right or title to the same; the City of Bovina will maintain said lines at its own expense. Extensions of said line may be made at any time the City may desire.

(b) The City of Bovina shall never be liable for payments of interest on any deposit, payments of refunds provided for herein.

(c) The builder or developer shall never have the right to demand payment hereunder out of any fund raised by the City through taxation.

(2) The City will, upon approval by the City Council, pay the developer of a subdivision within the City the difference in cost in extending a water main in excess of six inches (6") in diameter or a sewer main in excess of six inches (6") in diameter is necessary to take care of future water and sewer. The City Council's approval of all water and sewer line shall be required and no line smaller than that required for adequate fire protection shall be approved.

(3) Final accounting of each project will be the basis of final settlement with the Developer for actual costs of water and sewer main in excess of six inches (6") in diameter, and will, in all cases be one hundred percent (100%) of the actual cost of the project, based on the unit prices set out in the ordinance. In the event that it is impossible to award a contract for such work upon unit price basis, it will then become the obligation of the developer to provide complete engineering, including plans and specifications, on which contractors may bid, to determine a lump sum price for such work. The ratio of payment between the developer and the City would in such case remain the same with one hundred percent (100%) of such costs to be borne by the developer for the installation of six inch (6") lines or less.

(4) The City may furnish temporary water service to houses under construction.

(5) Temporary water service may be provided upon application of any desired location. The developer shall be required, upon application for such service, to make a meter deposit before such service is provided, and upon requesting a disconnect of the temporary service, he shall be refunded the deposit less the amount of water used.

§ 150.110. Flood Area.

a. Areas within the jurisdiction of the City subject to flood conditions, as established by the City Engineer, will not be considered for subdivision purposes, until adequate drainage has been provided, however that drainage facilities may be provided in compliance with the then current regulation as established by the City.

b. Drainage Report. A drainage report prepared by licensed registered engineer shall accompany the preliminary plat. This study shall show the acreage draining in the subdivision, points of run off through and away from the subdivision and other pertinent information as required by the City.

c. Methods and data used for calculation of run off shall be as required by the City.

§ 150.120. Changes and Variations.

a. These rules and regulations are the standard requirement of the City of Bovina.

b. Other Data. Such other certificates, affidavits, endorsements, or dedications as may be required by the Planning Commission in the case of a plan and program for a complete community of neighborhood unit which, in the judgment of the Planning Commission, provided adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and which also provided such covenants or such other legal provisions as will assure conformity to the achievement of the plan.

c. Conditions. In granting variances and modifications, the Planning Commission/City Council shall follow the Local Government Code 211.07. Sect 211.007 c) Before the 10th day

before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification or alteration shall be sent to each owner, as indicated by the most recently approved municipal tax roll, or real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the manner provided by Section 211.06 (a). The Planning Commission/City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirement so varied or modified.

§ 150.999. Violation: Any person who shall violate any portion of this subsection § 150 or fail to comply with the requirements stated shall for each and every such violation be guilty of a misdemeanor and upon conviction be fined in any sum not less than twenty-five dollars (\$25.00) and not more than that allowed by law. The imposition of one penalty for a violation of this ordinance shall not excuse the violation nor permit it to continue and all such persons shall be required to correct or remedy such violation within a reasonable time and each day that such violation continues and each day that such person fails to comply with such ordinance shall constitute a separate offense.

§ 160.00. Economic Development Board

§ 160.10. Mission.

a. The mission of the Bovina Economic Development Board shall be to assist, stimulate, and enhance the economic development of Bovina, Texas, subject to applicable State and Federal laws, these Bylaws, and the Articles of Incorporation.

b. In accordance with Section 4B of The Attorney General's Handbook on Economic Development Laws for Texas Cities: The adoption of Section 4B sales and use tax at the rate of ½ of one percent to undertake projects as described in Section 4B of Article 5190.6, including but not limited to projects for the promotion of additional water supplies and water conservation, professional and amateur athletics and sports including stadiums, ball parks, auditoriums, projects related to entertainment, convention, tourist, and exhibition facilities, amphitheaters, concert halls, and public parks, park facilities and events, open space improvements, learning centers, municipal buildings, educational facilities and facilities for the use by institutions of higher education museums and related stores, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, recycling facilities, and projects to promote new and expanded business enterprises including facilities to promote job creation and retention, job training facilities, and public safety facilities, streets, roads, drainage, and related improvements, demolition of existing structures, and general improvements that are municipally owned, developed or redevelopment of closed military bases, development and expansion of affordable housing, and targeted infrastructure and any other improvements or facilities that are related to any of the above projects and any business enterprises, and the maintenance and operations expenses for any of the above described projects.

§ 160.20. Officers.

a. Registered Office and Registered Agent.

(1) The Corporation shall have and continuously maintain in the State of Texas a registered office, and a registered agent, whose office is identical with such registered office, as required by the Development Corporation Act of 1979. The Board of Directors may, from time to time, change the registered agent and/or the address of the registered office, provided that such change is appropriately reflected in these Bylaws and in the Articles of Incorporation.

(2) The Corporation and the registered office of the Corporation is located at 205 North Street, Bovina, Texas 79009. The registered agent of the Corporation at such office shall be the City Manager, Bovina, Texas.

b. Principal Office. The principal office of the Corporation in the State of Texas shall be located in the City of Bovina, County of Parmer, and may be, but need not be, identical with the registered office of the Corporation.

§ 160.30. Purposes. The Corporation is incorporated for the purposes set forth in its Articles of Incorporation, the same to be accomplished on behalf of the City of Bovina, Texas (the "City") as its duly constituted authority and instrumentality in accordance with the Development Act of 1979, Article 5190.6, Vernon's Ann. Civ. St., as amended, (the "Act") and other applicable laws, and organized under Section 4B of the Act. The purpose of the Bovina Economic Development Corporation is to promote, assist, and enhance economic development in accordance with the Texas Development Corporation Act of 1979. Any project, as defined by such Act, which shall be undertaken by the Corporation, may include in such costs the maintenance and operating costs of such project.

§ 160.40. Members. The Corporation shall have no members or issue any stock.

§ 160.50. Board of Directors. The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors (the "Board"), nominated and appointed by the Mayor and confirmed by the City Council, and subject to applicable limitations imposed by the Texas Development Corporation Act of 1979, the Articles of Incorporation, and these Bylaws. The Board may, by contract, resolution, or otherwise, gives

general or limited or special power and authority to the officers and employees of the Corporation to transact the general business of any special business of the Corporation, and may give powers of attorney to agents of the Corporation to transact any special business requiring such authorization.

a. Number and Qualifications.

(1) The authorized number of Directors of this Board shall be seven (7).

(2) The Mayor of Bovina shall appoint the Directors of the Corporation.

At least three (3) of these Directors shall be persons who are not employees, officers, or members of the governing body of the City of Bovina, Texas.

(3) The Mayor shall consider an individual's experience, accomplishments, and educational background in appointing members to the Board to ensure that the interests and concerns of all segments of the community are considered.

b. Tenure. The term of office for the directors shall be two (2) years, with the right to be reappointed; removable for cause by a two thirds 2/3 vote of the Council.

c. Vacancies. Any vacancy shall be filled by the appointing authority of a suitable person to serve out the unexpired term of any member whose place on the Board has become vacant for any reason.

d. Meetings.

(1) Regular meetings of the Board shall be held on the first Tuesday of January, April, July, and October, or as close to that date as reasonably possible, at 7:00 p.m. in the City Hall Council Chambers of the City of Bovina, Texas. All meetings of the Board shall provide notice thereof as provided and set forth in Chapter 551, Texas Government Code, "Texas Open Meetings Act." Any member of the Board may request that an item be placed on the agenda by delivering the same in writing to the Secretary of the Board no later than three (3) days prior to the date of the Board meeting. The President of the Board shall set special meeting dates and times upon consideration of the request of any Board member.

(2) The annual meeting of the Board of Directors shall be held in July of each year at a place and time to be determined by the Board.

(3) Notice of any meeting shall be given to the public in accordance with the requirements of the Texas Open Meetings Act. The notice shall contain information regarding the particular time, date, and location of the meeting and the agenda to be considered. All meetings shall be conducted in accordance with the Texas Open Meetings Act.

e. Attendance. Regular attendance of the Board meetings is required of all members. The following number of absences may constitute the need for replacement: absence from three consecutive regular scheduled meetings. The President of the Board shall submit in writing to the City Secretary the need to replace the Board member in question.

f. Quorum. For the purpose of convening a meeting, a simple majority of the appointed number of appointed Directors then serving on the Board shall constitute a quorum. For purposes of transacting the business of the Corporation at any meeting, a simple majority of the appointed Directors shall constitute a quorum. If there is an insufficient number of Directors present to convene the meeting, the presiding officer shall adjourn the meeting.

g. Compensation. The duly appointed members of the Board shall serve without compensation, but shall be reimbursed for actual or commensurate cost of travel, lodging, and incidental expenses while on official business of the Board in accordance with State law.

h. Voting Action of the Board of Directors. Directors must be present in order to vote at any meeting. Unless otherwise provided in these Bylaws or in the Articles of Incorporation or as required by law, the act of a simple majority of the Directors present at any meeting for which a quorum is present shall be the act of the Board of Directors. In the event that a Director is aware of a conflict of interest or potential conflict of interest, with regard to any particular vote, the Director shall bring the same to the attention of the meeting and shall abstain from the vote, unless the Board determines that no conflict of interest exists. Any Director may bring to the attention of the meeting any apparent conflict of interest or potential conflict of interest of any other Director, in which case the Board shall determine whether a true conflict of interest exists before any vote shall be taken regarding that particular matter. The Director, as to whom a question of interest has been raised, shall refrain from voting with regard to the determination as to whether a true conflict exists.

i. Board's Relationship With City Council. In accordance with State law, the City Council shall require that the Board of Directors of the Bovina Economic Development Corporation be responsible to it for the proper discharge of its duties as assigned by the Articles of Incorporation, these Bylaws, and the State law. All policies for programs administration shall be submitted to the City Council for approval, and Board of Directors shall administer said programs accordingly. The Board shall determine its policies and direction within the limits of the duties imposed by applicable laws, the Articles of Incorporation, these Bylaws, contracts entered into with the City, and its budget and fiduciary responsibilities.

j. Bond Requirements – Officers. The members of the Board shall not be required to give an official bond.

§ 160.60. Officers.

a. Officers of the Corporation. The elected officers of the Corporation shall be a President, Vice President, and Secretary-Treasurer.

b. Selection of Officers. The initial officers shall be elected, at the annual meeting, by the Board and shall serve a term of one (1) year.

c. President. The following shall be the presiding officer of the Board with the following authority:

(1) Shall preside over all meetings of the Board.

(2) Shall have the right to vote on all matters coming before the Board.

(3) Shall have the authority, upon notice to the members of the Board, to call a special meeting of the Board when, in his/her judgment, such meeting is required, subject to provisions of the Texas Open Meetings Act.

d. Vice President. In the absence of the President or in the event of his/her inability to act, the Vice President shall perform the duties of the President. When so acting, the Vice President shall have all power of and be subject to all the same restrictions as upon the President.

e. Secretary-Treasurer.

(1) The Secretary shall keep, or cause to be kept, at the registered office a record of the minutes of all meetings of the Board. The Secretary shall also file a copy of said minutes with the City and the same given in accordance with provisions of these Bylaws, the Texas Open Meetings Act, the Texas Open Records Act, or other applicable law.

(2) The Treasurer is responsible for all funds and securities of the Corporation.

§ 160.70. Financial Administration. The Corporation shall contract with the City for financial accounting services and maintained as follows:

a. Fiscal Year. The fiscal year of the Corporation shall begin on 1 October and end on 30 September of the following year. An audit of the financial record will be accomplished in conjunction with the City's annual audit and reported to the Board and City Council for review and consideration.

b. Budget. The budget for the forthcoming fiscal year shall be submitted to and approved by the Board of Directors and the City Council, in accordance with the budget preparation schedule as set by the Budget Officer, to be included in the City of Bovina annual budget. The budget proposed for adoption shall include the projected operating expense and such other budgetary information as shall be useful to or appropriate for the Board and the City Council.

c. Projects. Monies may be issued for loans or grants to businesses, defined as projects that meet the guidelines of the mission and goals of the BEDC and §160.00.b. All projects shall be reviewed by the BEDC and recommended projects shall be forwarded to the Bovina City Council, along with a signed contract between the BEDC and the prospective business (grantee), for approval. Sixty (60) days after Bovina City Council approval, a check will be issued, signed, and forwarded to the grantee. The sixty days is to allow citizen participation in the form of obtaining a petition and signatures to place the issue before the voters as an election proposition.

d. Fund Accounts, Checks, and Drafts. All monies will be deposited in a bank account and accounted for through City accounting programs, separate from City funds (separate fund numbers, bank account, and checks). All checks, drafts, or order for payment of money, notes, or

other evidences of indebtedness issued in the name of the Corporation shall be signed by Bovina City Mayor or one of the City Councilmen and the City Manager.

e. Gifts. The Bovina Economic Development Corporation may accept on behalf of the corporation any contribution, gift, bequest, or devise for the general purpose or for any special purposes of the corporation.

f. Investments. Temporary and idle funds which are not needed for immediate obligations of the Corporation may be invested in any legal manner as set out in Chapter 2256, Texas Government Code.

g. Bonds. Any bonds issued by the Corporation shall be in accordance with the statute governing this Corporation but, in any event, no bonds shall be issued without approval of the Bovina City Council.

§ 160.80. Books and Records.

a. The Corporation shall keep correct and complete books and records of all actions of the Corporations, including books and records of account and the minutes of meetings of the Board of Directors. All books and records of the Corporation may be inspected by Directors, and any information which may be designated as public information by law shall be open to public inspection at any reasonable time. The Texas Open Records Act and Open Meetings Act shall apply to disclosure of public information.

b. The Corporation shall provide quarterly financial statements for review by the Directors.

§ 160.90. Parliamentary Authority.

a. These Bylaws may be amended or repealed and new Bylaws may be adopted by an affirmative vote of four (4) of the authorized Directors serving on the Board, at any regular or special meeting of the Directors held for such specific purpose, and the notice requirements stated hereinabove regarding regular and special meetings shall apply.

b. Notwithstanding the foregoing, no amendment shall become effective unless the City Council approves the amendment and so amends the City Code.

§ 160.100. Dissolution. The Corporation shall be dissolved according to the provisions contained in the appropriate sections of the Texas Development Act of 1979, as amended.

§ 160.110. Indemnity.

a. The Board of Directors shall authorize the Corporation to pay or reimburse any current or former Director or Officer of the Corporation for any costs, expenses, fines, settlements, judgments, and other amounts, actually and reasonably incurred by such person in any action, suit, or proceeding to which he/she is made a party by reason of holding such position as Director or Officer; provided, however, that such Director or Officer shall not receive such indemnification if he/she be finally adjudicated in such instance to be liable for misconduct in office. The indemnification herein provided shall also extend to good faith expenditures incurred in anticipation of or preparation for threatened or proposed litigation. The Board of Directors may in proper causes, extend the indemnification to cover the good faith settlement of any such action, suit, or proceedings, whether formally instituted or not.

b. To the extent the Board of Directors authorize indemnification to Directors or Officers of the Corporation, the City of Bovina shall also provide indemnity to said Directors and Officers. However, the City of Bovina's indemnification shall only apply after the Corporation's ability to indemnify has been exhausted. Nothing in this section creates personal liability on the part of Directors and Officers to any extent not otherwise provided by statute or case law.

§ 160.120. Miscellaneous.

a. These Bylaws are subject to and governed by the Articles of Incorporation.

b. These Bylaws shall be effective upon the adoption and approval of the City Council and amendment of the City Code.

§ 170.00. Municipal Highway Maintenance

The following responsibilities apply to State Highways (US 60, SH 86, FM 1731, and FM 2290) within the City Limits of the City:

a. State Responsibilities:

(1) Maintain the traveled surface and foundation beneath such traveled surface necessary for the proper support of same under vehicular loads encountered and maintain shoulders.

(2) Assist in mowing and litter pickup to supplement City resources when requested by the City.

(3) Assist in sweeping and otherwise cleaning the pavement to supplement City resources.

(4) Assist in performing snow and ice removal.

(5) Maintain drainage facilities within the limits of the right-of-way and State drainage easements.

(6) Install, maintain, and operate, when required, normal regulatory, warning and guide signs and normal markings in accordance with current State Statutes. This includes school safety devices, school crosswalks, and crosswalks installed in conjunction with pedestrian signal heads. This does not include other pedestrian crosswalks or any other traffic striping not approved by the State and/or City.

(7) Install, operate, and maintain traffic signals.

b. City Responsibilities, to be accomplished as funding and annual budgets permit:

(1) Prohibit angle parking.

(2) Install and maintain all parking restriction signs, pedestrian crosswalks, parking stripes, and special guide signs when agreed to in writing by the State and City.

(3) Signing and marking of intersecting City streets with State highways will be the responsibility of the City, in accordance with current Statutes.

(4) Installations, repairs, removals, or adjustments of publicly or privately owned utilities or services to be performed in accordance with Texas Department of Transportation specifications and subject to approval of the State in writing.

(5) The City shall retain all functions and responsibilities for maintenance and operations which are not specifically described as the responsibility of the State by Statutes.

(6) Perform mowing and litter pickup.

(7) Sweep and otherwise clean the pavement.

(8) Perform snow and ice control.

§ 180.00. Water Conservation/Emergency Water Demand Management Plan:

a. Approval of the Plan: The City Council hereby approves and adopts as the City's Water Conservation Plan the Water Conservation/Emergency Water Demand Management Plan attached hereto as Exhibit "A" to be included in full as a part of this Ordinance as if recited verbatim herein. The City commits to implement the program according to the procedures set forth in the adopted plan.

b. The City shall report to the Texas Water Development Board annually on the implementation and effectiveness of the plan in accordance with the outline set forth in the plan.

c. In regards to implementation and enforcement of the Water Conservation/Emergency Water Demand Management Plan, the Public Works Director and the City Manager of the city are designated as the officials responsible for implementation and enforcement, and the following guidelines are adopted:

(1) Mild Conditions: At any time the average daily water use approaches 75% of firm well field pumping capacity for three consecutive days, the City Council shall be authorized to request voluntary compliance by all users and initiate other measure in accordance with the Water Conservation/Emergency Water Demand Management Plan as set out in the said attached plan.

(2) Moderate Conditions: At any time the average daily water use reaches 90% of firm well field pumping capacity for three consecutive days, and/or, the net storage in raw water reservoirs is continually decreasing on a daily basis and falls below 60% capacity for 48 hours, and/or water pressures approach 40 psi in the distribution system as measured by the pressure gauges in the system, the City Council shall implement compulsory compliance by all users in accordance with the Water Conservation/Emergency Water Demand Management Plan as set out in the said attached plan.

(3) Critical Conditions: At any time the actual failure of a major component of the system which would cause an immediate health or safety hazard and/or water demand is exceeding the system capacity for three consecutive days and/or the groundwater wells are insufficient to supply the daily water demand and/or all raw water is being pumped from the system's storage reservoirs and replenishment of these reservoirs has stopped, a penalty shall be imposed on all users not acting in compliance with the Water Conservation/Emergency Water Demand Management Plan attached hereto in accordance with the standards of usage outlined within the plan and with the penalties established therein.

(4) In the event that item 3, Critical Conditions, persist for an extended period of time the City may ration water usage or terminate service to selected users of the system in accordance with the following sequence:

First:	Industrial Users
Second:	Commercial Users
Third:	Residential Users
Last:	Public Health and Safety Facilities

d. Users of city water, except for the City, that do not comply with Section III of this Ordinance shall be subject to a penalty and fine of not less than \$10.00 per day nor more that \$200.00 per day for each day of non-compliance and/or disconnection or discontinuance of water services to such users by the City.

e. The City Council finds and declares that a sufficient written notice of the date, hour, place, and subject of this meeting of the City Council was posted at a designated place convenient to the public at the City Hall for the time required by law preceding this meeting and that such place of posting was readily accessible at all times to the general public; that all of the foregoing was done as required by the law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon.

§ 200.00. Appendix A

§ 200.10. Definitions. The following definitions shall apply (words used in the present include the future; words used in the singular include the plural; and the word “shall” is mandatory and not discretionary:

a. ACCESSORY BUILDING: A subordinate use or building customarily incident to and located on the plot.

b. ALLEY: A way which extends only secondary means of access to abutting property. Any minor way which is used for vehicular service access to the back side of properties otherwise abutting on a street.

c. ANIMAL: Any living vertebrate or invertebrate creature including but not limited to mammals, reptiles, fish, and/or fowl, but not including human beings (*homo sapiens*).

d. ANIMAL CONTROL OFFICER: Any person designated by the City Manager to enforce the provisions of this Code.

e. ANIMAL CONTROL AUTHORITY: Means the City animal control officer with authority over the area where the dog is kept or the City police officer.

f. APARTMENT: A room or suite of rooms in an apartment house or tenement arranged, designed, or occupied as a residence of a single family, individual, or group of individuals.

g. APARTMENT HOUSE: A building or portion thereof arranged, designated or occupied by three (3) or more families living independently of each other.

h. Arterial Streets and Highways: Those which are used primarily for fast and/or heavy traffic.

i. BOARDING HOUSE: A building other than a hotel where lodging and meals for five (5) or more persons are served for compensation.

j. BUILDING: A structure having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, or chattels and when supported by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

k. CATTERY: Any authorized commercial establishment where three (3) or more cats over the age of four (4) months of age or eleven (11) or more cats under the age of four (4) months are kept for breeding or boarding purposes, except Veterinary facilities.

l. CITY: The governing body of the City of Bovina, Texas otherwise known as the City Council and Mayor.

m. CITY REPRESENTATIVE: That person, persons, or department so designated by the City Council to represent the City.

n. COLLECTOR STREETS: Those which carry traffic from minor streets to the major streets, arterial streets, or highways.

o. COMMERCIAL STABLE: Any facility where a fee is charged to house, pasture, rent horses, or other stock.

p. CUSTOMARY HOME OCCUPATIONS: Occupations, ordinarily carried on in a home that are not detrimental or injurious to adjoining property. These may include serving meals or renting rooms to not more than five (5) persons not members of the household, child care, baby sitting, dressmaking, millinery, washing, and ironing. Customary home occupations shall not include barber shops, beauty shops, carpenter shops, electrician’s shops, plumber’s shops, radio shops, transfer or moving van offices, auto repairing, auto painting, furniture repairing, sign painting, computer assembly, or computer repair.

q. DANGEROUS/VICIOUS DOG: means a dog that:

(1) makes an unprovoked attack on a person that causes bodily harm/injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(2) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily harm/injury to that person.

r. DEPTH OF LOT: The mean horizontal distance between the front and rear lot lines.

s. DEPTH OF REAR YARD: The mean horizontal distance between the rear line of a building other than an accessory building and the center line of the alley where the alley exists; otherwise, the rear lot line.

t. DISTRICT: A section of the City of Bovina for which regulations governing the area's height or use of building are uniform.

u. DWELLING, MULTIPLE: A building used or designated as a residence for three (3) or more families or households living independently of each other.

v. DWELLING, SINGLE FAMILY: A detached building having accommodations for and occupied by only one (1) family.

w. DWELLING, TWO FAMILY: A detached building for separate accommodations for and occupied as, or to be occupied as a dwelling for only two (2) families.

x. FAMILY: A family is any number of individuals living together as a single housekeeping unit as distinguished from a group occupying a boarding house, a lodging house, or both, or hotel as herein defined.

y. FILLING STATION: A place where gasoline or oil and grease as accessories are sold, supplies are dispensed to the retail motor vehicle or where motor vehicles are repaired or equipped for service or where electric storage batteries are recharged and cared for or a place where any two (2) or more such activities are carried on or conducted.

z. FRONT YARD: An open unoccupied space on the same lot with a building; between the building and the street line or lines of the lot.

aa. GARAGE, PRIVATE: A garage with a capacity for not more than five (5) motor driven vehicles for storage only and for private use.

bb. GARAGE, PUBLIC: Any premises not a private garage as defined herein, used for housing no more than three (3) motor vehicles or where any such vehicles are repaired for operation or kept for remuneration, hire, or sale.

cc. GARAGE, STORAGE: Any premises except those defined as a private or public used exclusively for storage of automobiles and other motor vehicles.

dd. GROUP HOUSE: Detached or semidetached dwelling on one lot, usually in opposing rows separated by a walkway or court, for three (3) or more families or households living independently of each other.

ee. HEIGHT: The height of a building or portion of a building shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher or if no street grade has been established to the highest point of the roof's surface to the deck line of a mansard roof; and to the mean height level between eaves and ridge for hip or gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, radio and television towers, ornamental cupolas, domes or spires, elevator bulkheads, penthouses, tanks, water towers, and parapet walls not exceeding four (4) feet in height.

ff. HOTEL: A building occupied as the more or less temporary abiding place of individuals who lodged with or without meals, in which as a rule the rooms are occupied for hire, in which there are more than twelve (12) sleeping rooms, a public dining room for the accommodation of more than twelve (12) guests, and a general kitchen.

gg. INTERIOR COURT: An open, unoccupied space surrounded on all sides by walls or by lot lines.

hh. JUNKED VEHICLE: Also called an abandoned vehicle. Means any motor vehicle defined as inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certificate and which is wrecked, dismantled, partially dismantled, discard, or remains inoperative for a continuous period of more than 120 days.

ii. KENNEL: Any authorized commercial establishment where four(4) or more dogs over the age of four (4) months of age or eleven (10) or more dogs under the age of four (4) months are kept for breeding or boarding purposes, except Veterinary facilities.

jj. LARGE LIVESTOCK: Any member of the domesticated equine family, including horses, ponies, mules, donkeys, and burros, and all members of the domesticated bovine family, including but not limited to bulls, cows, and steers.

kk. LOCAL STREETS: Those streets providing for local traffic and direct access to abutting property.

ll. LODGING HOUSE: A building other than a hotel where lodging for five (5) or more persons is provided for by compensation.

mm. LOT: Land occupied or to be occupied by a building and its accessory buildings and including such open space as are required under this ordinance and having its principal frontage upon a public street or officially approved place.

nn. LOT, CORNER: A lot situated at the junction of two (2) or more streets and having a width not greater than one hundred (100) feet.

oo. LOT LINES: The lines bounding a lot as defined herein.

pp. MANUFACTURED HOME: Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet (2,438 body mm) or more in width or 40 body feet (12,192 body mm) or more in length, or, when erected on site, is 320 square feet (30M²) or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such a term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacture voluntarily files a certification required by the secretary (HUD) and complies with the standards established under this title. For mobile homes built prior to 15 June 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, in effect at the time of manufacture is required. For the purpose of these provisions, a mobile home shall be considered a manufacturer home.

qq. MAY: Shall be deemed as permissive.

rr. MOBILE HOME: See pp. MANUFACTURED HOME.

ss. NON-CONFORMING USES: A building or premises occupied by a use that does not conform to the regulations of use in the District in which it is situated.

tt. OWNER: Any person or group of persons living in the same household, firm, or corporation having a title to or custody of any animal or person who has, harbors, keeps, or causes or permits to be harbored, fed, or kept an animal in his care or custody, or any person who feeds an animal for seven (7) days, or who allows an animal to remain on or about his premises for ten (10) days.

uu. PLACE: An open, unoccupied space reserved for purposes of access to abutting property.

vv. PARKING LOT: Any open areas other than a street, alley, or place used for temporary parking of more than four (4) motor vehicles and available for public use for hire but not including such parking space as may be available for free use and accommodation of clients or customers of one or more business establishments.

ww. PARK(S) or PLAYGROUND(S): A public area set aside and maintained by the City for all residents for enjoyment and recreation.

xx. PEDDLER. Any person or group of persons who shall use the streets or alley-ways for the purposes of going house to house or place to place soliciting or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, newspapers, magazines, or subscriptions.

yy. PLANNING COMMISSION: Shall be deemed to refer to the Planning-Zoning Commission of the City of Bovina; may include the City Council in the absence of an appointed commission.

zz. PUBLIC DANCE: Any dance open to the public, or a dance held in a building used for social functions by the community, or a dance where admission fee is charged or a donation is requested, or a dance where a live band is paid for services rendered, or where a record or tape player is used for dancing in a manner whereby music can be heard beyond the property line of the premises, or any combination thereof.

aaa. PUBLIC GATHERING: Any assembly of 75 or more people and includes, but is not limited to any party, dance, or other assembly to which the public or a substantial group of the public has access, either through invitation or through any form of paid admission.

bbb. READY BUILT HOME: A pre-built building, intent on being a single family home, segmented or one piece that is constructed off site, completed, and moved to a permanent sight, and set on a permanent foundation, with all wheels and axles removed and the structure permanently anchored to the foundation.

ccc. REAR YARD: A space unoccupied except by building of accessory use as hereinafter permitted, extending for the full width of the lot between a building other than a building of accessory use and the rear line.

ddd. RESTRAINT: An animal shall be deemed restrained when it is:

(1) Confined on the premises of the owner within a building, walled or fenced enclosure, or,

(2) Under the control of a person by leash, or,

(3) On or within a vehicle being driven or parked, or

(4) At heel beside a competent person and obedient to that person's command.

Minors shall not be considered competent persons.

eee. RUNNING AT LARGE: Any animal not completely confined by a building, wall, or fence of sufficient strength or construction to restrain the animal or held in the hands of the owner or keeper, or under the direct supervision of the owner or keeper within the limits of the owner's private property.

fff. SECURE ENCLOSURE: means a fenced area or structure that is:

(1) locked;

(2) capable of preventing the entry of the general public, including children;

(3) capable of preventing the escape or release of a dog;

(4) clearly marked as containing a dangerous dog; and

(5) in conformance with the requirements for enclosures established by the City animal control authority.

ggg. SHALL: Shall be deemed as mandatory.

hhh. SIDE YARD: An open unoccupied space on the same lot with a building situated between the building and the side line of the lot, and extending through from the street or from the front yard or to the rear line of the lot. Any lot line not a rear or front yard or to the rear line of the lot. Any lot line not a rear line or front line shall be deemed a side line.

iii. SMALL LIVESTOCK: All types of domesticated swine, sheep, and goats.

jjj. STABLE, PRIVATE: A stable with a capacity for not more than four (4) horses, mules, or domestic animals.

kkk. STABLES, PUBLIC: A stable with a capacity for more than four (4) horses, mules, or other domestic animals.

lll. STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor next above it, then the space between such floor and the ceiling next above.

mmm. STORY, HALF: A story having an average height of no more than eight (8) feet covering a floor area of not more than seventy-five percent (75%) of the floor on the story next below.

nnn. STREET: Any public thoroughfare dedicated to the public and not designated as an alley.

ooo. STREET LINE: A lot line along any street including the street upon which the lot fronts, provided that any lot shall extend completely from one street to another opposite ends of the same lot, the said lot shall be deemed to front on both of such streets.

ppp. STRUCTURAL ALTERATIONS: Any change on the supporting member of a building, such as bearing wall, columns, beams, or girders.

qqq. SUBDIVIDER: A person who causes land to be divided into a subdivision for himself or others or seeks authorization therefore.

rrr. SUBDIVISION: The division or proposed division of a parcel of land into two or more parcels for the purpose of transfer of ownership or building development; provided that a division of the land for agricultural purposes into lots or parcels of five acres or more not involving a new street or alley shall not be deemed a subdivision.

sss. TRACT OF LAND: Any piece or parcel of land whether or not divided by platting into lots.

ttt. TOURIST CAMP, OR COURT: Any group of attached or detached buildings containing individuals sleeping or living units for overnight tourists, with garage attached or parking facilities conveniently located to each unit. Noting in this definition shall be construed to

repeal, alter, nullify the definitions or requirements of any other ordinance of the provisions of each ordinance shall be according to the terms thereof.

uuu. TRAILER CAMP, OR COURT: Any open area other than a street, alley, or other public place, used exclusively for the parking or temporary storage of two (2) or more non-self-propelled vehicles containing living and/or sleeping accommodations which are designed and used for highway travel.

vvv. VICIOUS ANIMAL: Any individual animal of any species that has on any occasions, without provocation, attacked or bitten any person or animal; or any individual animal which the Animal Control Officer or Police Department has reason to believe has a dangerous disposition or is a threat to the public, or any species of animal which the Animal Control Officer or Police Department has reason to believe has a dangerous disposition or is a threat to the public or other animals.

www. WILD ANIMALS: Any poisonous or dangerous reptile, or any other animal which can normally be found in the wild state, not normally capable of being domesticated, including but not limited to skunks, foxes, raccoons, leopards, panthers, cougars, tigers, lions, lynx, ferrets, and opossums, unless certified for medical, biological, herpetological, or other scientific research or study.

§ 210.00. Appendix B

Published under separate cover....