TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

PARKS AND GREENWAYS

SECTION

20-101. Adoption. The rules and regulations below are hereby adopted by the board of mayor and aldermen, and may be amended from time to time by resolution of the board of mayor and aldermen. A copy of such rules and regulations shall be filed with the town recorder and will be available for citizen review. The mayor is authorized to post pertinent rules and regulations within the parks and greenway as he determines necessary. These regulations are in addition to other applicable town, state and federal laws. This chapter shall become effective upon final passage, the public welfare requiring it. (Ord. #2006-08-101, Aug. 2006)

20-102. Rules and regulations. (1) It is unlawful to use, place, or erect any signboard, sign, billboard, bulletin board, post, pole, or device of any kind for advertising in any park; or to attach any notice bill, poster, sign, wire, rod or cord to any tree, shrub, railing, post or structure within town park; or without written consent of the Town of Bean Station, to place or erect in any park, a structure of any kind; provided that the Town of Bean Station may permit the erection of temporary directional signs or decorations on occasions of public celebration and picnics.

(2) It is unlawful to remain in any park after the posted closing time, except when engaged in activities that are a part of the recreation programs approved by the Town of Bean Station. Park or greenway hours are from 6:00 A.M. to 10:00 P.M.

(3) It is unlawful for any person, except duly authorized law enforcement personnel, to possess any firearm, fireworks, firecracker, torpedo, explosive, air gun, bows and arrows, BB gun or slingshot in any park until a written permit has been obtained from the Town of Bean Station.

(4) It is unlawful to possess or consume alcoholic beverages in any park or greenway.

(5) It is unlawful for any person to disobey rules and signs.

(6) It is unlawful for any vehicle with a gross weight of over thirty-two thousand (32,000) pounds or a maximum width of over one hundred two inches (102") to use the road in any park of the town. This rule shall not apply to town maintenance vehicles and emergency vehicles.

(7) It is unlawful in any manner to lease, annoy, disturb, molest, catch, injure or kill , throw any stone or missile of any kind at, or strike with any stick or weapon, any animal, bird, or fowl.

(8) It is unlawful to perform the following activities in a park or greenway area unless specifically authorized by the Town of Bean Station in writing. Such writing shall include a concession contract with the Town of Bean Station:

(a) Operating a fixed or mobile concession, traveling exhibition;

(b) Soliciting, selling, offering for sale, peddling, hawking, or vending any goods or services;

(c) Advertising any goods or services other than the direct handling of written advertising handled to any one (1) person;

(d) Distributing any commercial circular notice, leaflet, pamphlet or printed material of any kind in any building. These facilities are not public fora or limited public fora and are designated solely to the specific purposes for which they are dedicated; and

(e) Entering upon, using or traversing any portion of a park for commercial purpose.

(9) It is unlawful for any person to travel on a trail at a speed greater than is reasonable and prudent under the existing conditions and having regard to actual and potential hazards. In every event, speed shall be so controlled as may be necessary to avoid colliding with others who are complying with the law and using reasonable care. Travel at speeds in excess of fifteen (15) miles per hour on a walking/vehicle trail shall constitute in evidence a prima facie presumption that the person violated this section.

(10) It is unlawful for dogs or other animals to be allowed in the greenway or the park bathrooms unless on an approved leash with reasonable control of the animal.

(11) It is unlawful to stay in any park or greenway when directed to leave by a Town of Bean Station employee or official of the Town of Bean Station or any police officer. Vehicles shall not be authorized in the park after 10:00 P.M.

(12) It is unlawful to remove, destroy, mutilate or deface any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, shrub, tree, fern, plant, flower, lighting system, or sprinkling system or other property in the park or greenway.

(13) It is unlawful to throw any refuse, litter, broken gloss, crockery, nails, shrubbery, trimmings, junk, or advertising matter in the park or to deposit any such material therein, except in receptacles provided for such purposes.

(14) It shall be unlawful for any person to deposit any refuse brought from private property in receptacles located in the town park or greenway or facilities. Nothing in this section is intended to prohibit the disposal of refuse generated from park use such as picnics, barbecues, lunches, etc.

(15) It is unlawful to play car stereos, radios, or "boom boxes" portable audio equipment, such as tape or compact disc players, so loudly they interfere with normal conversations or cause annoying vibrations at a distance of seventy-five feet (75') or more.

(16) It is unlawful to ride, park, or drive any motorcycle, motor vehicle, go-cart, ATV, four (4) wheeler or three (3) wheeler, land sailing device, horse or pony on, over, or through any park or greenway. Skateboards are not allowed on walking and biking trails.

(17) It is unlawful to park a trailer, camper, or other vehicle for the purpose of remaining overnight.

(18) It is unlawful to build any fires in any park or greenway except in areas designated by the Town of Bean Station.

(19) It is unlawful to use profane or abusive language or to conduct oneself in a manner that interferes with the reasonable use of the park or greenway.

(20) It is unlawful to operate any bicycle on any designated walking trails within the town parks. (Ord. #2006-08-101, Aug. 2006, modified)

20-103. <u>Violations and penalty</u>. Any violation of the provisions of this chapter that are designated misdemeanors shall be punishable by a fine not exceeding fifty dollars ($50.00) per day for each violation. The court may also order a person found to have committed a misdemeanor under this chapter to make full restitution. (Ord. #2006-08-101, Aug. 2006)

CHAPTER 2

TELECOMMUNICATIONS

SECTION

20-201. Purpose. The purpose of this chapter is to establish a competitively neutral policy for usage of public rights-of-way for the provision of telecommunications services and enable the town to:

(1) Permit non-discriminatory access to the public rights-of-way for providers of telecommunications services;

(2) Manage the public rights-of-way in order to minimize the impact and cost to the citizens of the placement of telecommunications facilities within the rights-of-way;

(3) Obtain fair and reasonable compensation for the commercial use of public rights-of-way through collection of rents;

(4) Promote competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the town; and

(5) Minimize the congestion, inconvenience, visual impact, and other adverse effects on the town's public rights-of-way. (Ord. #____, June 1997)

20-202. Applicable scope. This chapter applies to all telecommunications service providers under Titles II ("Title II") and VI ("Title VI") of the Communications Act of 1934, as amended, (47 U.S.C. 201 *et seq*.) excluding services provided solely by means of wireless transmission. This chapter does not exempt providers of cable service or open video systems service from the requirements of Title VI and applicable FCC rules and regulations. Any requirements and obligations imposed by this chapter are in addition to any requirements imposed by Title VI or state law and regulation on such providers. (Ord. #____, June 1997)

20-203. Definitions. (1) "Applicant." Any person who files an application with the town, under § 20-205 (application to provide telecommunications services) of this chapter, in order to obtain the necessary permission to use the public rights-of-way to provide telecommunications services within the town, whether by means of the person's own facilities or by means of capacity obtained from another provider of telecommunications services.

(2) "Chief administrative officer." The chief administrative officer of the Town of Bean Station or the person designated by the board of mayor and aldermen to carry out the duties and responsibilities of the chief administrative officer. Chief administrative officer shall also mean the person under the chief administrative officer's management and control designated by the chief administrative officer to administer the provisions of this chapter.

(3) "Gross revenue." All revenues received by a provider for telecommunications services furnished within the town; however, revenues received for use of network capacity, switched or unswitched access, and sale of unbundled elements under 47 U.S.C. 251(b) and (c) from resellers of telecommunications services who are in compliance with this chapter are not included. Gross revenue does not include revenue uncollectible from customers ("bad debt") and any end user taxes collected front customers.

(4) "Municipal right-of-way use permit or municipal permit." The right granted by the town to use public rights-of-way to provide telecommunications services within the town to the public or to other providers, as specified by the terms of this chapter.

(5) "Person." Any person, firm, partnership, association, corporation, company, or organization of any kind.

(6) "Provider." A person who has been granted a certificate of need by the Tennessee Regulatory Authority and/or who operates or uses a telecommunications network within the town to provide telecommunications services, and who falls under the definition of § 20-202 (applicable scope) of this chapter.

(7) "Public rights-of-way." The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property in

which the town holds any property interest or exercises any rights of management or control over and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of a telecommunications network.

(8) "Telecommunications network" or "network." All facilities placed in the public rights-of-way and used to provide telecommunications services.

(9) "Telecommunications services." All transmissions between or among points specified by the user, of information of the user's choosing (whether voice, video or data), without change in content of the information as sent and received, where such transmissions are accomplished through a telecommunications network. Telecommunications services include all ancillary or adjunct switching services and signal conversions rendered as a function of underlying transmission services, but excludes long distance transmissions (inter-LATA and intra-LATA toll transmissions). Telecommunications services include all services provided. Telecommunications services also include all content or value-added services rendered in conjunction with transmission services.

(10) "Town." The Town of Bean Station present municipal corporation of Grainger County, together with any future annexation made pursuant to law.

(11) "Town requirements." All laws, rules, regulations, policies and directives of general application of the Town of Bean Station in effect at present or to be adopted in the future by the town. (Ord. #____, June 1997, modified)

20-204. Municipal right-of-way use permit required. (1) A person may not deliver telecommunications services in the town by means of a network unless the person obtains a municipal right-of-way use permit.

(2) The use of public rights-of-way for the delivery of any service not covered by this chapter is subject to all other applicable town requirements. (Ord. #____, June 1997)

20-205. Application to provide telecommunications services using the public rights-of-way. (1) Any person proposing to provide telecommunications services by means of a telecommunications network located within the public rights-of-way ("applicant") shall submit an application to the chief administrative officer. The application, in a form to be prescribed by the chief administrative officer, shall describe all services the applicant wishes to provide, outline applicant's proposed network, and identify the uses of and potential impact on the public rights-of-way.

(2) The chief administrative officer shall have the duty to review applications submitted under this chapter and administer the provisions of this chapter regarding the granting or denial of a municipal right-of-way use permit to applicants. The chief administrative officer shall issue municipal right-of-way use permits, and shall administer and enforce compliance with respect to all municipal right-of-way use permits granted under this chapter. The chief

administrative officer shall submit a report annually to the board of mayor and aldermen analyzing whether any requirements imposed by each section of this chapter result in: anti-competitive effects in the market for telecommunications services in the town, as defined by federal law; and/or discrimination in favor of or against a holder of a certificate of need under state law. (Ord. #____, June 1997)

20-206. Municipal right-of-way use permit issuance. (1) If the chief administrative officer finds that the application meets the requirements of this chapter, the chief administrative officer shall cause to be prepared a municipal right-of-way use permit for issuance to the applicant.

(2) The chief administrative officer shall complete all deliberations towards issuing a municipal right-of-way use permit, and shall issue the permit or a written denial within sixty (60) days of the receipt of an application. The applicant shall respond to all reasonable information requests of the chief administrative officer during this consideration period. Any delays in providing such information shall be documented in writing by the chief administrative officer, who may cite any delays or refusals in obtaining information from an applicant as grounds for denial of a permit. (Ord. #____, June 1997)

20-207. Petition for reconsideration. The act of granting, denying, or terminating a municipal right-of-way use permit is an exercise of the police power of the town. A person whose application for a municipal right-of-way use permit is denied must petition the board of mayor and aldermen for reconsideration before seeking judicial remedies, and must file such a petition within forty-five (45) days of the written denial of such application by the chief administrative officer. A petition is considered denied if the board of mayor and aldermen does not act within forty-five (45) days after the petition is filed with the town clerk. (Ord. #____, June 1997)

20-208. Administration and enforcement. (1) The chief administrative officer shall administer this chapter and enforce compliance with a municipal right-of-way use permit granted under this chapter.

(2) A provider shall report information that the chief administrative officer requires in the form and manner prescribed by the chief administrative officer relating to the use of public rights-of-way for the right-of-way occupancy authorized by a municipal right-of-way use permit granted under this chapter.

(3) The chief administrative officer shall report to the board of mayor and aldermen the chief administrative officer's determination that a provider has failed to comply with this chapter. (Ord. #____, June 1997)

20-209. Applicability. (1) Sections 20-215 (construction), 20-216 (ROW occupancy), and 20-217 (insurance) of this chapter apply only to a provider that owns or controls physical facilities in the rights-of-way.

(2) Section 20-218 (indemnity) of this chapter applies to a provider that has a property interest in a network. (Ord. #____, June 1997)

20-210. Compensation to town. (1) To compensate the town for the use and occupancy of the public rights-of-way, a provider shall pay a municipal right-of-way rental fee calculated as follows:

(a) Rights-of-way rental fee: each provider shall be subject to a five percent (5%) annual fee based on gross revenue obtained from the provision of telecommunications services within the town.

(b) Non-monetary consideration: to the extent allowed by state and federal law, the town may include non-monetary consideration from each provider. To the extent not expressly prohibited by applicable law, a provider may agree to furnish to the town non-monetary consideration in the form of telecommunications services, network capacity, conduit, or other infrastructure, valued al the provider's direct cost. The chief administrative officer shall, apply a credit or an offset for any non-monetary consideration received to the annual right-of-way rental fee. The chief administrative officer shall publicly disclose the form of non-monetary consideration and the credit amount.

(c) Credit for cable television franchise fees and other contributions. Any telecommunications provider who is currently franchised by the town under state and federal law and regulations to provide cable television service shall receive a credit against the annual rights-of-way rental fee for any cable television franchise fees paid to the town, and any other monetary or non-monetary contributions to the town under a cable franchise agreement.

(2) A provider may pass through to customers the municipal right-of-way rental fee on a pro rata basis, at its discretion, as permitted by state and federal law. The town does not require or recommend a pass-through charge of the fee on a per line or per customer basis. (Ord. #____, June 1997)

20-211. Remitting rental fees to the town. A provider shall remit the municipal right-of-way rental fee on a quarterly basis. Payment shall be made on or before the forty-fifth (45th) day following the close of each calendar quarter for which the payment is calculated. (Ord. #____, June 1997)

20-212. Audits. (1) On thirty (30) days' notice to a provider, the town may audit a provider at any time. The provider shall furnish information to demonstrate its compliance with the municipal right-of-way use permit.

(2) A provider shall keep complete and accurate books of accounts and records of business and operations in accordance with generally accepted accounting principles for a period of five (5) years. If the Federal Communications Commission requires, a provider shall use the system of accounts and the forms of books, accounts, records, and memoranda prescribed

in 47 CFR part 32 or its successor. The town may examine the provider's books and records.

(3) A provider shall make available to the town, for the town to examine, audit, review and copy, in the town's offices, upon the chief administrative officer's reasonable written request, its books and records including papers, books, accounts, documents, maps, plans and other provider records pertaining to a municipal right-of-way use permit granted under this chapter. A provider shall fully cooperate in making records available and otherwise assist the town examiner. The town examiner shall not make copies of customer specific information. (Ord. #____, June 1997)

20-213. Transfers. (1) A provider may not transfer a municipal right-of-way use permit unless the chief administrative officer approves the transfer in writing.

(2) A change in control of a provider is a transfer requiring chief administrative officer approval. A change of twenty-five percent (25%) or greater in the ownership of the provider establishes a rebuttable presumption of a change in control.

(3) If a provider attempts to transfer or transfers the provider's municipal right-of-way use permit without approval of the chief administrative officer, the chief administrative officer may revoke the municipal right-of-way use permit. If a municipal right-of-way use permit is revoked, all rights of the provider under the municipal right-of-way use permit end,

(4) A provider may transfer, without the chief administrative officer's approval, the facilities in the rights-of-way under a municipal right-of-way use permit to the provider's affiliate or to another provider who has a municipal right-of-way use permit under this chapter. The provider transferring the facilities remains subject to all applicable obligations and provisions of the municipal right-of-way use permit unless the provider to which the facilities are transferred is also subject to these applicable obligations and provisions.

(5) The chief administrative officer must act on a request for transfer of a municipal permit within ninety (90) days of receipt of the request from the provider. Any request for a transfer of a municipal permit not acted upon within ninety (90) days shall be deemed to have been approved. (Ord. #____, June 1997)

20-214. Notices to the town. (1) A provider shall notify the chief administrative officer in writing contemporaneously with the transmittal of all petitions, applications, written communications and reports submitted by the provider, to the Federal Communications Commission and the Tennessee Regulatory Authority, or their successor agencies relating to matters affecting both the use of public rights-of-way and the telecommunications services authorized by a municipal permit granted under this chapter. A provider shall furnish the chief administrative officer copies of the documents upon request.

(2) If a provider notifies the town of the confidential nature of information, the chief administrative officer shall maintain the confidentiality of the information to the extent permitted by law. Upon receipt in the chief administrative officer's office of requests for confidential information, the town shall notify the affected providers of the request by facsimile transmission. (Ord. #____, June 1997)

20-215. Construction obligations. (1) A provider is subject to the police powers of the town, other governmental powers, and the town's rights as a property owner under state and federal laws. A provider is subject to town requirements and federal and state rules in connection with the construction, expansion, reconstruction, maintenance, or repair of facilities in the public rights-of-way.

(2) A provider shall place certain facilities underground according to applicable town requirements.

(3) At the town's request, a provider shall furnish the town accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation, and repair of facilities performed by the provider in the public rights-of-way. If any information furnished is erroneous as to the location of facilities, and reliance on this information results in construction delays or additional expenses, the provider who furnished the erroneous information shall be liable for the cost of delays and the additional expenses.

(4) The construction, expansion, reconstruction, excavation, use, maintenance and operation of a provider's facilities and property are subject to applicable town requirements.

(a) A provider shall perform excavations and other construction in the public rights-of-way in accordance with all applicable town requirements, including the obligation to use trenchless technology whenever possible. The director of public works shall waive the requirement of trenchless technology if he determines that field conditions warrant the waiver. A provider shall minimize interference with the use of public and private property and shall follow the construction directions given by the town.

(b) When a provider completes construction work, a provider shall promptly restore the public rights-of-way in accordance with applicable town requirements. A provider may excavate only for the construction, installation, expansion, repair, removal, and maintenance of the provider's facilities.

(c) The town may require a provider to allow attachment of another provider's facilities to its poles and conduits, in accordance with the town charter, state and federal law.

(d) A provider shall furnish the director of public works and the chief administrative officer with construction plans and maps showing the routing of new construction at least forty-five (45) days before

beginning construction that involves an alteration to the surface or subsurface of the public right-of-way. A provider may not begin construction until the plans and drawings have been approved in writing by the director of public works.

(e) If the chief administrative officer declares an emergency and requests the removal or abatement of facilities, by written notice, a provider shall remove or abate the provider's facilities by the deadline provided in the chief administrative officer's request. A provider and the town shall cooperate to the extent possible to assure continuity of service. If a provider, after notice, fails or refuses to act, the town may remove or abate the facility, at the sole cost and expense of the provider, without paying compensation to the provider and without the town incurring liability for damages.

(f) Except in an emergency, a provider may not excavate the pavement of a street or public right-of-way without first complying with town requirements.

(g) Within one hundred twenty (120) days of completion of each new segment of a provider's facilities, a provider shall supply the town with a complete set of "as built" drawings for the segment in a format prescribed by the director of public works. A provider must obtain the town's approval before relocating the provider's facilities in the public rights-of-way. The town may not unreasonably withhold approval. A provider shall furnish a revised map including additional facilities on June 30 of each year to the director of public works showing how these facilities connect to existing facilities. (Ord. #____, June 1997)

20-216. <u>Conditions of rights-of-way occupancy</u>. (1) In the exercise of governmental functions, the town has first priority over all other uses of the public rights-of-way. The town reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachment, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley, or right-of-way occupied by a provider, and to change the curb, sidewalks or the grade of streets.

(2) In case of conflict or interference between the facilities of different providers, the provider whose facilities were first permitted shall have priority over a competing provider's use of the public rights-of-way.

(3) If, during the term of a municipal permit, the town authorizes abutting landowners to occupy space under the surface of any public street, alley, or rights-of-way, the grant to an abutting landowner shall be subject to the rights of the provider. If the town closes or abandons a public right-of-way that contains a portion of a provider's facilities, the town shall convey the land in the closed or abandoned public rights-of-way subject to the rights granted in the municipal permit.

(4) If the town gives written notice, a provider shall, at the provider's expense, temporarily or permanently, remove, relocate, change or alter the position of provider's facilities that are in the public rights-of-way within one hundred twenty (120) days. The town shall give notice whenever the town has determined that removal, relocation, change, or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a town or other governmental entity's public improvement in the public rights-of-way. This section shall not be construed to prevent a provider's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal.

(5) A provider who holds a municipal permit may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its network. All tree trimming shall be performed in accordance with standards promulgated by the town. When ordered by the director of public works, tree trimming shall be done under the supervision of the town.

(6) Providers shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the town gives written notice of no less than forty-eight (48) hours. The expense of this temporary rearrangement shall be paid by the party or parties requesting and benefitting from the temporary rearrangement. Provider may require prepayment or prior posting of a bond from the party requesting the temporary move. (Ord. #____, June 1997)

20-217. <u>Insurance requirements</u>. (1) A provider shall obtain and maintain insurance in the amounts prescribed by the chief administrative officer with an insurance company licensed to do business in the State of Tennessee acceptable to the chief administrative officer throughout the term of a municipal permit granted under this chapter. A provider shall furnish the town with proof of insurance at the time of issuance of a municipal permit. The town reserves the right to review the insurance requirements while a municipal permit is in effect, and to reasonably adjust insurance coverage and limits when the chief administrative officer determines that changes in statutory law, court decisions, or the claims history of the industry or the provider require adjustment of the coverage. For purposes of this section, the town will accept certificates of self-insurance issued by the State of Tennessee providing the same coverage.

(2) The chief administrative officer may, on request and at no cost to the town, receive copies of certificates of insurance evidencing the coverage required by this section. The chief administrative officer may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the town, the provider, or the underwriter. If the chief administrative officer requests a deletion, revision or modification, a provider shall exercise reasonable efforts to pay for and to accomplish the change. An insurance certificate shall contain the following required provisions:

(a) Name the town and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;

(b) Provide for thirty (30) days' notice to the town for cancellation, non-renewal, or material change;

(c) Provide that notice of claims shall be provided to the chief administrative officer by certified mail; and

(d) Provide that the terms of the municipal permit which impose obligations on the provider concerning liability, duty, and standard of care, including the indemnity section, are included in the policy and that the risks are insured within the policy terms and conditions.

(3) A provider shall file and maintain proof of insurance with the chief administrative officer during the term of a municipal permit. An insurance certificate obtained in compliance with this section is subject to town approval. The town may require the certificate to be changed to reflect changing liability limits. A provider shall immediately advise the town of actual or potential litigation that may develop that would affect insurance coverage related to a municipal permit.

(4) An insurer has no right of recovery against the town. The required insurance policies shall protect the provider and the town. The insurance shall be primary coverage for losses covered by the policies.

(5) The policy clause "other insurance" shall not apply to the town where the town is an insured under the policy.

(6) The provider shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the town for payment of a premium or assessment. Insurance policies obtained by a provider must provide that the issuing company waives all right of recovery by way of subrogation against the town in connection with damage covered by the policy. (Ord. #____, June 1997)

20-218. <u>Indemnity</u>. (1) During the term of a municipal permit, a provider is liable for the acts or omissions of an entity used by the provider, including an affiliate, when the entity is involved directly or indirectly in the construction and installation of the provider's facilities. The acts or omissions of the entity shall be considered the acts or omissions of the provider.

(2) Each provider granted a municipal permit under this chapter shall provide to the chief administrative officer, in writing, a statement that the provider agrees to defend, indemnify and hold the town harmless against all damages, cost, loss or expense arising out of, incident to, concerning or resulting from the negligence or willful misconduct of the provider, its agents, employees, or subcontractors, in the performance of activities under the municipal permit:

(a) For the repair, replacement, or restoration of town property, equipment materials, structures and facilities which are damaged, destroyed or found to be defective; and

(b) Against any and all claims, demands, suits, causes of action, and judgments for:

(i) Damage to or loss of the property of any person including, but not limited to the provider, its agents, officers, employees and subcontractors, the town's agents, officers and employees, and third parties; and

(ii) Death, bodily injury, illness, disease, worker's compensation, toss of services, or loss of income or wages to any person including but not limited to the agents, officers and employees of the provider, the provider's subcontractors, the town, and third parties, no matter how, or to whom, the loss may occur.

(3) The chief administrative officer shall give prompt written notice to a provider of any claim for which the town seeks indemnification. The provider shall have the right to investigate, defend and compromise these claims subject to the town's prior approval. (Ord. #____, June 1997)

20-219. Privacy of customer information. A provider shall comply with state and federal law regarding privacy of customer information. (Ord. #____, June 1997)

20-220. Annexation; de-annexation. Within thirty (30) days following the date of passage of any action affecting any de-annexation or annexation, the chief administrative officer shall notify providers of this action by furnishing to the providers maps of the affected area(s), showing the new boundaries of the town. (Ord. #____, June 1997)

20-221. Unauthorized use of public rights-of-way. (1) A person commits an offense if a person uses the public rights-of-way to provide a telecommunications service without first securing a municipal permit from the town.

(2) Each unauthorized use of the public rights-of-way and each unauthorized placement of facilities constitutes a separate offense. Each day a violation of this chapter occurs shall constitute a distinct and separate offense.

(3) An offense under this section is punishable by a fine of fifty dollars ($50.00). (Ord. #____, June 1997, modified)

CHAPTER 3

PUBLIC RECORDS PROCEDURES

SECTION

20-301. Procedures regarding access to and inspection of public records. (1) Consistent with the Public Records Act of the State of Tennessee, personnel of the Town of Bean Station shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(2) Employees of the Town of Bean Station shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the records custodian or designee. All copying of public records must be performed by employees of the town, or, in the event that town personnel are unable to copy the records, by an entity or person designated by the records custodian.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the Town of Bean Station, persons requesting inspection and/or copying of public records are requested to complete a records request form to be furnished by the town. If the requesting party refuses to complete a request form, a town employee shall complete the form with the information provided by the requesting party. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in subsection (2) above. All requests for public records shall be directed to the records custodian.

(4) When records are requested for inspection or copying, the records custodian has up to seven (7) business days to determine whether the town can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. Within seven (7) business days of a request for records the records custodian shall:

(a) Produce the records requested;

(b) Deny the records in writing, giving explanation for denial; or

(c) In the case of voluminous requests, provide, in writing, the requestor with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

(a) Standard eight and one-half by eleven (8-1/2 x 11) or an eight and one-half by fourteen (8-1/2 x 14) black and white copy - fifteen cents ($0.15) per page for each produced.

(b) Standard eight and one-half by eleven (8-1/2 x 11) or eight and one-half by fourteen (8-1/2 x 14) color copy - fifteen cents ($0.15) per page for each produced.

(c) Accident reports - fifteen cents ($0.15) per page for each standard eight and one-half by eleven (8-1/2 x 11) or eight and one-half by fourteen (8-1/2 x 14) black and white copy produced.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the town.

(6) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requester. Employee labor in excess of one (1) hour may be charged to the requester, in addition to the cost per copy, as provided in subsection (5) above. The town may require payment in advance of producing any request. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(a) For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head will then multiply total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(b) When the total number of requests made by a requester within a calendar month exceeds four (4), the requests will be aggregated, and the requester shall charge a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requester that the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests.

(7) If the town is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the records custodian may assess the requester the cost assessed to the town.

(8) Upon completion of a records request the requester may pick up the copies of records at the office of the records custodian. Alternatively, the

requester may choose to have the copies of records delivered via United States Postal Service; provided that the requester pays all related expenses in advance.

(9) The police chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the records custodian. [This provision is for small police departments who do not have personnel trained in records management. Larger police departments should maintain personnel records in the department under the supervision of a trained records custodian]. Requests for personnel records, other than for undercover investigators, shall be made to the records custodian, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release of the information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of his reasons for not releasing the information.

(10) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection.