

(1) Injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the city; or

(2) Claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permittees or activities of registrants or permittees.

(B) *Indemnification.* A registrant or permittee shall indemnify, keep and hold the city, its officials, employees, and agents free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair, or operation of its equipment and facilities, or out of any activity undertaken in or near a public right-of-way, whether or not any act or omission complained of is authorized, allowed or prohibited by a public right-of-way permit. The foregoing does not indemnify the city for its own negligence except for claims arising out of or alleging the city's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permittee or the city, and the registrant or permittee, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert on its own behalf.

(C) *Consent.* If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the city. Such consent will not be unreasonably withheld.

(Ord. 715, passed 5-23-02)

§ 97.19 ABANDONED FACILITIES.

(A) *Notification.* A public right-of-way user shall notify the city when facilities are abandoned. The public right-of-way user shall submit to the Director a plan for the removal of the abandoned equipment or facility. The Director may require the

public right-of-way user to post a bond in an amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the equipment and facilities if the public right-of-way user fails to do so.

(B) *Removal of abandoned facilities.* A right-of-way user shall notify the city when facilities are to be abandoned. A right-of-way user that has abandoned facilities in the right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, unless the city waives this requirement. (Ord. 715, passed 5-23-02)

§ 97.20 APPEAL.

A public right-of-way user that:

- (A) has been denied registration;
- (B) has been denied a permit;
- (C) has had permit revoked; or
- (D) believes that the fees imposed are invalid;

may have the denial, revocation, or fee imposition reviewed by the City Council upon written request. The City Council shall act on a written request at its next regularly scheduled meeting. The decision by the City Council shall be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. 715, passed 5-23-02)

§ 97.21 INSURANCE.

(A) All certificate(s) of insurance or self-insurance required under this chapter shall provide the following:

- (1) That an insurance policy has been issued to the applicant by an insurance company licensed to do business in the State of Minnesota, or a form of self insurance acceptable to the Director;

(2) Verify that the applicant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:

(a) Use and occupancy of the public right-of-way by the permittee, its officers, agents, employees and permittees, and

(b) Placement and use of facilities and equipment in the public right-of-way by the permittee, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(3) Name the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(4) Require that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

(5) Indicate comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter:

(B) Public liability insurance, including premises, products and complete operations;

(1) General liability:

(a) Bodily injury liability: \$1,000,000 each person, \$3,000,000 each occurrence

(b) Property damage liability: \$3,000,000 each occurrence

(c) In lieu of (1) and (2) bodily injury and property damage, combined: \$3,000,000 single limit.

(C) Automobile liability insurance, including owned, non-owned and hired vehicles;

(1) Comprehensive

(a) Bodily injury liability: \$1,000,000 each person, \$3,000,000 each occurrence

(b) Property damage liability: \$3,000,000 each occurrence

(c) In lieu of (1) and (2) bodily injury and property damage, combined - \$3,000,000 single limit

(D) The city may require a copy of the actual insurance policies; if the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06 as recorded and certified to by the Secretary of State; a copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency. A franchise agreement may exempt a permittee from this paragraph. (Ord. 715, passed 5-23-02)