

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. FIXED ASSETS, PROPERTY CONTROL AND INVENTORY.
2. TELECOMMUNICATIONS.

**CHAPTER 1****FIXED ASSETS, PROPERTY CONTROL AND INVENTORY****SECTION**

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**20-101. Purpose.** To regulate administrative policy and procedure for the accountability and control of the city's fixed assets, personal property, and stored supplies and materials; for adequate inspection and inventory, and for the proper disposal of surplus, obsolete or salvage supplies, materials and/or equipment. (Ord. #JT-4, Sept. 1997)

**20-102. Definitions.** For the purpose of this regulation, the following definitions shall apply:

(1) "Fixed assets." Any and all real property, i.e., land, buildings, streets, roads and ways, sidewalks, storm drainage systems, water production, storage and distribution systems, sewage collection and treatment systems, and other such properties, the title to which is vested in the town.

(2) "Personal property." All other property, i.e., vehicles, construction and maintenance equipment, tools, communications equipment, office furnishings, machines and equipment, not classified as a fixed asset (real property).

(3) "Accountability level." The monetary limit which is established beyond which the item must be accounted for in the appropriate accounting records.

(4) "Inventory." The total quantity of supplies and materials maintained on hand for day-to-day operations, maintenance and repairs.

(5) "Obsolete assets." Assets which because of technical advances or changes in local requirements are no longer adequate to perform the required function, but which are otherwise in serviceable condition.

(6) "Property control officer." The individual designated by the mayor to be responsible for the creation and maintenance of all necessary records to provide for accurate control and accountability of all fixed assets, property and inventory of the city, or, failing such designation, the mayor him/herself.

(7) "Surplus assets, property or inventory." Assets, property or supplies and materials which are in good operating and functional condition, but are obsolete or no longer needed to accomplish the appropriate mission of the city government.

(8) "Salvage assets, property or inventory." Assets, property or supplies and materials which through use have reached a point where it is no longer economically feasible to repair and maintain them.

(9) "Disposal." The elimination of fixed assets, property or inventory which have been classified as "surplus," "obsolete" or "salvage" by authorized public sale or transfer to other governmental entities. (Ord. #JT-4, Sept. 1997)

**20-103. General provisions.** (1) The mayor, as the chief executive officer of the city, has ultimate responsibility for accountability and maintenance of all fixed assets, personal property and inventory owned by the city.

(2) The city recorder/director of finance shall be designated as the property control officer, shall be under the supervision of the mayor, and shall be assigned responsibility for the establishment and maintenance of all necessary controls and records to adequately account for all fixed assets, personal property and inventory of the city which are above the accountability level as hereinbelow established.

(3) The supervisor of each department or activity of the city government shall be responsible to the property control officer for the accountability of all fixed assets, personal property and/or inventory assigned to his or her respective department or activity.

(4) The property control officer shall provide the required control forms and records to be used in the city's property control program. These forms and records shall be standardized for all users. (Ord. #JT-4, Sept. 1997)

**20-104. Fixed asset control.** All fixed assets of the city, regardless of the individual unit cost, shall be an accountable item.

(1) Each building shall be a separately accountable item, and shall be identified on a "Land and Building Record" card. The property control officer shall be responsible for the records of the municipal building.

(2) Each separate tract or parcel of land shall be identified on a "Land and Building Record" card. The warranty deed, easement deed, etc., for each such tract will be filed in the city recorder's office.

(3) All other improvements which are classified as a fixed asset shall be identified on a "Fixed Asset Inventory Record" card by type of assets. For example, sewage systems, listed by component, i.e., sewer mains, sewage pumping station, etc.

(a) The initial classifications of such improvements will be coordinated with the property control officer to insure proper identification of each asset and subsequent changes to that asset.

(b) Fixed assets such as pipelines, streets, etc. will be listed by linear footage.

(4) When the provisions of this regulation are initially implemented, it will be necessary to make an estimate of the value of the item in those cases where the original value or cost cannot be ascertained. Thereafter, the acquisition price or fair market value shall be used to indicate the value.

(5) It shall be the responsibility of the supervisor of each department or activity of the city to notify the property control officer, on the prescribed asset change form, of all corrections, additions and/or deletions of accountable fixed assets. (Ord. #JT-4, Sept. 1997)

**20-105. Property control.** The accountability level for each item of non-expendable personal property, effective with the date of this regulation, shall normally be five hundred dollars (\$500); however, in those cases of small, critical items which require closer control, such as office machines, weapons, communications equipment, photographic equipment, laboratory equipment, etc., these items will be accountable, regardless of initial cost or current value.

(1) Each item of accountable personal property shall be identified on an individual "Property Control and Equipment Inventory Record" card; however, multiples of the same item may be placed on the same card and quantities, costs, serial numbers, item numbers, etc. listed thereon.

(2) The initial establishment of the property control procedures will require complete inventory and identification of all items to be placed under property control. Estimates as to value will be required where the original value or cost is unknown. Adequate nomenclature shall be established by the property control officer to insure that each item of equipment is adequately classified.

(3) Subsequent corrections, additions and/or deletions of items from the property control records shall be the responsibility of the supervisor of the department or activity to which the items are assigned. The property control officer shall provide the necessary form to be used for each such change. (Ord. #JT-4, Sept. 1997)

**20-106. Inventory control.** Each supervisor of a department or activity of the city government which stores or maintains a stockage (inventory) of spare parts and supplies or materials of significant value will be responsible for maintaining a "running inventory" of all such materials. The property control officer will provide the necessary inventory forms; however, these forms will be

maintained in the department or activity and available for review during audits. (Ord. #JT-4, Sept. 1997)

**20-107. Annual inventories.** A one hundred percent (100%) physical inventory of all fixed assets, personal property and inventory shall be conducted a minimum of once each fiscal year, during the month of May. The property control officer will provide each department or activity concerned the necessary inventory forms. This annual inventory will insure that all property is accounted, its serviceability noted, and the proper data posted to the appropriate property records for the annual audit of the city's records. (Ord. #JT-4, Sept. 1997)

**20-108. Property disposal.** All items of fixed assets, personal property and/or supplies and materials which have been determined to be surplus, obsolete or salvage items will be disposed of in the following manner:

(1) The supervisor of each department or activity of the city government which has such items to be disposed of will submit a "Request for Disposal" to the property control officer, who will refer the request to the mayor for approval.

(2) The mayor shall have the authority to authorize the disposal of such items where the value (sale price) is not expected to exceed \$500.00.

(3) The disposal of a surplus, obsolete or salvage item, the value of which is in excess of \$500.00, will require the approval of the board.

(4) The disposal of any real property of the city will require the approval of the board.

(5) All surplus, obsolete or salvage items to be sold shall be sold by either sealed bids or public auction, subsequent to the public advertisement of the sale at least one time in the city's official newspaper at least 14 days prior to the sale.

(a) With the authorization of the mayor, such items with a value of \$50.00 or less may be sold without bids or public auction; however, each such sale shall be reported to the board at its next regular meeting.

(b) The transfer of surplus, obsolete, or salvage items to other governmental entities may be accomplished on a negotiated basis, subject to the approval of the board. (Ord. #JT-4, Sept. 1997)

**20-109. Penalties.** The disposal of any fixed asset, personal property and/or inventory of supplies and materials owned by the city by any other manner or means than those hereinabove prescribed, unless the board has lawfully and specifically authorized an exception thereto, by any officer, official or employee of the City of Camden, or other individual(s), is an unlawful action and may subject the person or persons responsible to personal financial liability for any loss to the city incurred thereby, and may also result in other legal

recourse, and possible termination with prejudice of the employment by the city of such person or persons. (Ord. #JT-4, Sept. 1997)

## CHAPTER 2

### TELECOMMUNICATIONS

#### SECTION

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**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 city to:

- (1) Permit non-discriminatory access to the public rights-of-way for providers of telecommunications services; and
- (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; and
- (3) Obtain fair and reasonable compensation for the commercial use of public rights-of-way through collection of rents; and
- (4) Promote competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the city; and
- (5) Minimize the congestion, inconvenience, visual impact, and other adverse effects on the city's public rights-of-way. (Ord. #JT-1, Sept. 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. #JT-1, Sept. 1997)

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

(2) "City." The City of Camden, the present municipal corporation of Camden, together with any future annexation made pursuant to law.

(3) "Chief administrative officer." The Chief Administrative Officer of the City of Camden, or the person designated by the city council 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.

(4) "City requirements." All laws, rules, regulations, policies and directives of general application of the City of Camden, in effect at present or to be adopted in the future by the city.

(5) "Gross revenue." All revenues received by a provider for telecommunications services furnished within the city. 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 from customers.

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

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

(8) "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 city to provide telecommunications services, and who falls under the definition of § 20-202 of this chapter.

(9) "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 city 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.

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

(11) "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. (Ord. #JT-1, Sept. 1997)

**20-204. Municipal right-of-way use permit required.** (1) A person may not deliver telecommunications services in the city 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 city requirements. (Ord. #JT-1, Sept. 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 city council



analyzing whether any requirements imposed by each section of this chapter result in

- (a) Anticompetitive effects in the market for telecommunications services in the city, as defined by federal law, and/or
- (b) Discrimination in favor of or against a holder of a certificate of need under state law. (Ord. #JT-1, Sept. 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 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. #JT-1, Sept. 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 city. A person whose application for a municipal right-of-way use permit is denied must petition the city council for reconsideration before seeking judicial remedies, and must file such a petition within 45 days of the written denial of such application by the chief administrative officer. A petition is considered denied if the city council does not act within 45 days after the petition is filed with the city clerk. (Ord. #JT-1, Sept. 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 city council the chief administrative officer's determination that a provider has failed to comply with this chapter. (Ord. #JT-1, Sept. 1997)

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

(2) Section 20-218 of this chapter applies to a provider that has a property interest in a network. (Ord. #JT-1, Sept. 1997)

**20-210. Compensation to city.** (1) To compensate the city 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 5% annual fee based on gross revenue obtained from the provision of telecommunications services within the city.

(b) Non-monetary consideration: To the extent allowed by state and federal law, the city 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 city non-monetary consideration in the form of telecommunications services, network capacity, conduit, or other infrastructure, valued at 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 city 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 city, and any other monetary or non-monetary contributions to the city 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 city does not require or recommend a pass-through charge of the fee on a per line or per customer basis. (Ord. #JT-1, Sept. 1997)

**20-211. Remitting rental fees to the city.** A provider shall remit the municipal right-of-way rental fee on a quarterly basis. Payment shall be made on or before the 45th day following the close of each calendar quarter for which the payment is calculated. (Ord. #JT-1, Sept. 1997)

**20-212. Audits.** (1) On 30 days notice to a provider, the city 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 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 city may examine the provider's books and records.

(3) A provider shall make available to the city, for the city to examine, audit, review and copy, in the city'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 city examiner. The city examiner shall not make copies of customer specific information. (Ord. #JT-1, Sept. 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 25 percent 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 90 days of receipt of the request from the provider. Any request for a transfer of a municipal permit not acted upon within 90 days shall be deemed to have been approved. (Ord. #JT-1, Sept. 1997)

**20-214. Notices to the city.** (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 city 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 city shall notify the affected providers of the request by facsimile transmission. (Ord. #JT-1, Sept. 1997)

**20-215. Construction obligations.** (1) A provider is subject to the police powers of the city, other governmental powers, and the city's rights as a property owner under state and federal laws. A provider is subject to city 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 city requirements.

(3) At the city's request, a provider shall furnish the city 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 city requirements.

(a) A provider shall perform excavations and other construction in the public rights-of-way in accordance with all applicable city 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 city.

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

(c) The city may require a provider to allow attachment of another provider's facilities to its poles and conduits, in accordance with the city 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 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 city shall cooperate to the extent possible to assure continuity of service. If a provider, after notice, fails or refuses to act, the city may remove or abate the facility, at the sole cost and expense of the provider, without paying compensation to the provider and without the city 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 city requirements.

(g) Within 120 days of completion of each new segment of a provider's facilities, a provider shall supply the city 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 city's approval before relocating the provider's facilities in the public rights-of-way. The city 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. #JT-1, Sept. 1997)

**20-216. Conditions of rights-of-way occupancy.** (1) In the exercise of governmental functions, the city has first priority over all other uses of the public rights-of-way. The city 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 city 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 city closes or abandons a public right-of-way that contains a portion of a provider's facilities, the city 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 city 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 120 days. The city shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city 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 city. When ordered by the director of public works, tree trimming shall be done under the supervision of the city.

(6) Providers shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the city gives written notice of no less than 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. #JT-1, Sept. 1997)

**20-217. Insurance requirements.** (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 city with proof of insurance at the time of issuance of a municipal permit. The city 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 city 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 city, 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 city, 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 city and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;

(b) Provide for 30 days notice to the city 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 city approval. The city may require the certificate to be changed to reflect changing liability limits. A provider shall immediately advise the city 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 city. The required insurance policies shall protect the provider and the city. The insurance shall be primary coverage for losses covered by the policies.

(5) The policy clause "other insurance" shall not apply to the city where the city 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 city 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 city in connection with damage covered by the policy. (Ord. #JT-1, Sept. 1997)

**20-218. Indemnity.** (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 city 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 city 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 city's agents, officers and employees, and third parties; and

(ii) Death, bodily injury, illness, disease, worker's compensation, loss 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 city, 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 city seeks indemnification. The provider shall have the right to investigate, defend and compromise these claims subject to the city's prior approval. (Ord. #JT-1, Sept. 1997)

**20-219. Privacy of customer information.** A provider shall comply with state and federal law regarding privacy of customer information. (Ord. #JT-1, Sept. 1997)

**20-220. Annexation; deannexation.** Within thirty (30) days following the date of passage of any action affecting any deannexation 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 city. (Ord. #JT-1, Sept. 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 city.

(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 subsection is punishable by a fine of \$500. (Ord. #JT-1, Sept. 1997)