

# Exhibit B

## ARTICLE IV. - CONSTRUCTION, EXCAVATIONS<sup>(8)</sup>

Footnotes:

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**Charter reference**— Authority of city to regulate street excavations, § 2.03(f).

**Cross reference**— Buildings and building regulations, ch. 22.

### DIVISION 1. - GENERALLY

Secs. 78-166. - Administrator designated.

The director of public works hereby designates the city engineer to administer and implement this article by granting or denying permit applications in accordance with the provisions of this article.

Secs. 78-167—78-175. - Reserved.

### DIVISION 2. - EXCAVATIONS, OPENINGS, OR BORES

Sec. 78-176. - Permit required.

It shall be unlawful for any person or owner of utilities, public or private, to make any excavation, opening, or bore in the city public right-of-way without first obtaining a permit from the city engineer or his designee to perform such work. Such permit must be secured prior to commencement of any work. Issuance of any other type of permit whatsoever does not constitute an interim clearance for excavation, opening, or bore as covered in this article. If emergency repairs, as accepted by the city engineer, are necessary to restore or maintain service by a public utility during other than normal business hours, the utility making the emergency repairs need not obtain a permit in advance of making such repairs, but shall comply with all other applicable provisions of this article. The permit shall be obtained at the first reasonable opportunity after such emergency repairs are made. (Code 1971, § 31-65)

Sec. 78-177. - Required investigations, etc.

It shall be the duty and obligation of all applicants for permits to make all investigations necessary to locate all existing above ground and underground structures, pipelines, conduits, etc., in the area where work is contemplated. Prior to performing any excavation, opening, or bore, the applicant is required to call Louisiana One Call. The applicant must follow all other local, state, and federal laws and guidelines. It shall be the duty and obligation of any person making any excavation, opening, or bore to maintain and protect any and all existing above ground and underground structures, pipelines, conduits, etc. (Code 1971, § 31-66)

Sec. 78-178. - Submission of plans, etc.

Any applicant for a permit to make any excavation, opening, or bore in the city public right-of-way shall submit an application with sufficient data, plans, etc., to make a complete review of the proposed work. The city engineer's designee will examine all applications within two business days of submission. If the application does not include all the submittal requirements for the application, the city engineer's designee will reject the application and provide the applicant with the reasons for the rejection. The city engineer's designee will take no further steps to process the application until all deficiencies are remedied. (Code 1971, § 31-67)

Sec. 78-179. – Standards for Making Repairs to Excavations, Pavements, etc.

All repairs shall be done by contractor under the supervision of a city representative. The work shall be completed in accordance with the current edition of the City of Shreveport Standard Specifications for Infrastructure Improvements, City of Shreveport Standard Plans for Infrastructure Improvements, and Pavement Cut and Repair Standards Procedure. This shall include but not limited to backfilling, paving, curbing, curb and gutter sections, sidewalk sections, and unpaved areas.

Sec. 78-180. - Inspections.

This article shall provide for a city representative to act as an aid in accomplishing the results desired as outlined in this division and to inspect the work site of an excavation, opening, or bore to ensure that proper workmanship and materials of acceptable quality are being used in the restoration work. It shall be the duty and obligation of the permit holder to notify the city engineer's designee at least twenty four hours in advance of the time when inspection is desired, and no bore, backfill, or paving shall be made until the city representative has examined the work area. The city representative shall act only as an aid in accomplishing the results as outlined in this division. The presence of a city representative does not relieve the permit holder of the obligation to fully comply with the intent of this article. (Code 1971, § 31-74)

Sec. 78-181. - Inspection fees.

An inspection fee shall be charged to each permit holder in an amount of \$165.00 per inspection. If for any reason an inspection is not approved and a reinspection is required, then a fee of \$165.00 will be charged for each reinspection. The minimum number of inspections for excavations, openings, or bores in different areas shall be:

(1) Excavations or openings in concrete and asphalt street paving, curbing or combination curb and gutter, alley, or sidewalk shall be a minimum of three inspections per excavation or opening area. Three required inspections include inspection of the backfill, inspection of the surface course, and a final inspection.

(2) Excavations or openings in any unpaved area shall be a minimum of two inspections per excavation or opening area. Two required inspections include inspection of the backfill and a final inspection.

(3) Boring a city road shall be a minimum of three inspections per bore. Three required inspections include inspection of the bore, inspection of the backfill, and a final inspection. If

the excavation is in a paved area, an additional inspection will be required to inspect the surface course. (Code 1971, § 31-73)

Sec. 78-182. - Safety precautions.

It shall be the duty and obligation of the permit holder to safeguard the public in every manner by maintaining the necessary guards, barricades, and safety lights for such protection during construction, while on-site and not on-site, and by maintaining the public right-of-way area in a good and safe condition free of mud and debris until beginning repair or repaving work. The permit holder shall hold the city harmless from any claim for damages or personal injury as a result of such work by the permit holder. (Code 1971, § 31-75)

Sec. 78-183. - Correction of unacceptable work.

(a) Should any person or owner of utilities fail to replace materials, fail to restore areas to their original conditions, or in any way fail to comply with the conditions of this division, after he has been notified by the city engineer or his designee that such work is unacceptable, the city shall have the right to perform the necessary work or restoration to original condition and charge the cost, plus a 25 percent administrative charge, to the permit holder doing the excavation, opening, or bore work. It is provided, however, that no such work shall be undertaken by the city until the permit holder doing the excavation, opening, or bore work shall have had an opportunity to do the work himself within at least ten days after notice has been given to him. Proper notice shall consist of notification by certified mail or by personal delivery.

(b) When the party doing the excavation, opening, or bore work fails to respond to proper notice as set forth in subsection (a) of this section and the city is required to perform the necessary work of restoration to original condition, the actual cost to the city, plus a 25 percent administrative charge in having to perform the work, is declared to be the obligation of the permit holder doing the excavation, opening, or bore work. After the city has performed the necessary work of restoration to original condition, the city shall invoice the permit holder doing the excavation, opening, or bore work for the actual cost of the work performed, plus a 25 percent administrative charge, and the permit holder shall have ten days in which to pay the invoice in full. If the permit holder fails to pay the invoice in full within ten days, the city shall have the right to enforce collection of the actual cost, together with the cost of prosecuting the suit, in any court of proper jurisdiction.

(c) In addition thereto, the city engineer or his designee shall have the right to revoke a permit issued under this division upon any violation by the permit holder of this division, and the city engineer or his designee shall also have the right to refuse a future permit to a person or owner of utilities who has, in the past, failed to comply with all the requirements of this division.

Sec. 78-184. - Failure of work.

(a) Should settlement occur over excavation, opening, or bore or should there occur any other failure due to the work performed by the permit holder, it shall be the obligation of the permit holder who did the work to correct the settlement and/or failure, including but not limited to removing and replacing backfill, repaving, resodding, and reseeding.

(b) The city engineer or his designee shall notify, by certified mail or by personal delivery, the permit holder of any condition due to settlement and/or any other failure of restoration. The permit holder shall have ten days after receipt of the notice to make the necessary corrections, including but not limited to removing and replacing backfill, repaving, resodding, and reseeding.

(c) If the permit holder fails to respond to proper notice as set forth in subsection (b) of this section, the city shall have the right to perform the necessary corrective work. If the city performs the necessary corrective work, the actual cost, plus a 25 percent administrative charge to the city in having to perform the work, is declared to be an obligation of the permit holder who did the excavation, opening, or bore work. After the city has performed the necessary corrective work, the city shall invoice the permit holder for the actual cost, plus a 25 percent administrative charge, and the permit holder shall have ten days in which to pay the invoice in full. If the permit holder fails to pay the invoice in full within ten days, the city shall have the right to enforce collection of the actual cost, plus a 25 percent administrative charge, plus all costs of prosecuting the suit, in any court of proper jurisdiction.

(d) In addition thereto, the city engineer or his designee shall have the right to revoke a permit upon any violation by the permit holder of this division, and shall also have the right to refuse a future permit to a person or owner of utilities who has, in the past, failed to comply with all the requirements of this division.

Sec. 78-185. - Starting work prior to obtaining permit.

Any person or owner of utilities, private or public, who commences any excavation, opening, or bore in the city public right-of-way before obtaining the necessary permit from the city engineer shall cause the cost of resulting inspection fees to be doubled. On the second offense and thereafter, the person or owner of utilities, private or public, shall be fined \$5,000 for each occurrence. (Code 1971, § 31-81)

Sec. 78-186. – Excavations or Openings in newly constructed, reconstructed or resurfaced streets.

Excavations and openings will not be permitted in newly constructed, reconstructed or resurfaced streets for a period of three years after substantial completion of the work unless it is an emergency condition as accepted by the city engineer. An emergency condition is a situation which creates a threat to public health, welfare, or safety.

Secs. 78-187—78-205. - Reserved.

DIVISION 3. - BARRICADES<sup>191</sup>

Footnotes:

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**Cross reference**— Buildings and building regulations, ch. 22; traffic and vehicles, ch. 90.

Sec. 78-206. - Submission of plan.

Any person who shall undertake to perform any work upon, in, under, above or about any street, alley, curb, gutter, sidewalk, or any public right-of-way within the city shall, as a condition upon the issuance and continuation of a permit for such work, furnish to the department of traffic engineering prior to the issuance of any permit as required by this Code, for such work, a scale plat or sketch on forms furnished by the city showing the work area, the space within the right-of-way required for the work and a proposed plan for the use of barricades, signals, signs, flags, flares, and other traffic control and safety devices about the work area, which plan, referred to in this division as the "Barricade Plan," shall conform to the requirements of this article and any regulations or standards established by the department of traffic engineering, and shall be deemed a part of such permit. This section shall not apply to utility companies or the city when engaged in work involving overhead signals, communications and/or electric circuits. However, adequate warning devices shall be used in the performance of this work.

(Code 1971, § 31-141)

Sec. 78-207. - Requirements of barricade plan.

The department of traffic engineering shall have the power to make reasonable regulations for barricading of construction areas within public right-of-way. The city may require as part of any barricade plan, that the applicant maintain such barricades, signals, signs, or other traffic control or safety devices according to such regulations. The city may further require that work be done only at certain hours during the day or night, that materials or equipment used in such work and dirt and materials removed from any excavation be located other than adjacent to the work area where feasible, and that any excavation be covered with materials of sufficient strength and construction to permit vehicular traffic to pass over such excavation at peak traffic hours, where such requirements shall be deemed necessary in the interest of safety and to avoid traffic congestion.

(Code 1971, § 31-142)

Sec. 78-208. - Violations and penalties; stop orders; correction of deficiencies.

- (a) *Penalty.* Any person who shall perform work on or about a public right-of-way and who shall violate any provision of this division or fail to comply with the barricade plan made a part of such permit shall cause such work to be subject to a stop order until this division or the barricade plan, or both, shall be complied with, or may be fined a sum of not less than \$25.00 nor more than \$100.00, or both, subject to a fine and a stop order, and each day in which a violation of this division shall occur shall constitute a separate offense. Any person apparently in charge of the work, or any officer of a corporation responsible for the conduct of any work done in violation of this division may be deemed the responsible party for purposes of arrest and of imposing any fines under this section and of receiving any stop order issued by the city.
- (b) *Action by city to correct deficiencies.* If a stop order is issued, the person holding the permit and engaging in the work shall restore the work area to its proper condition as called for in the barricade plan and permit upon demand by the city, and, if such is not done within 24 hours from receipt of notice to do so, the city shall be authorized to and may, at its election, take charge of the work and restore the premises to the condition called for in the barricade plan and permit and shall be entitled to receive from the contractor by civil action twice the actual expense incurred by the city in so acting, including, but not limited to, cost of labor, materials, overhead, and reasonable rental of any equipment used by the city in restoring the site, and, for such purposes, the city shall have a right of action against any bond in effect running from the holder of the permit to the city, conditioned upon compliance with the ordinances of city in the performance of such work.

(Code 1971, § 31-143)

Sec. 78-209. - Provisions supplemental to building code.

The provisions of this division are to be construed as supplemental to and together with any provisions of the building code of the city insofar as such building code may have provisions relating to this general subject matter.

(Code 1971, § 31-144)

Sec. 78-210. - Indemnification of city.

At all times during which any work under this division is being performed, and until such work is completed and accepted and approved by the public works inspector, the contractor shall and will indemnify and save harmless the city from and against any and all actions and claims and against all costs, damages and expenses to which the city may be put to by reason of any injury or alleged injury to any person or property resulting or alleged to result from or to be occasioned by any act, negligence, carelessness or want of skill in connection with or in the conduct of any of such work, or in guarding the work, or from any improper methods, tools, implements or materials used in prosecution or by or on account of any alleged act or omission whatever of the contractor or his agents, employees or servants; and the contractor or person doing such work under the permit as provided for in this article shall make payment of any and all sums so recovered against the city in any suits on account of such alleged injuries to which the city may be a party, together with all such costs, damages and expenses as may be suffered by the city, all in such manner as to save the city whole and harmless from all such actions or claims.

(Code 1971, § 31-145)

Secs. 78-211—78-230. - Reserved.