
AMENDMENT NO. 1 TO ORDINANCE NO. 150 OF 2021

ORDINANCE NO. 150 OF 2021

AN ORDINANCE TO REVISE CHAPTER 78 ARTICLE IV “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES – CONSTRUCTION, EXCAVATIONS” OF THE CITY OF SHREVEPORT, LOUISIANA, CODE OF ORDINANCES, RELATIVE TO CONSTRUCTION, EXCAVATIONS, AND BORES IN THE CITY PUBLIC RIGHT-OF-WAY, AND TO OTHERWISE PROVIDE WITH RESPECT THERETO.

AMENDMENT PROPOSED BY:

Councilman John Nickelson

INSTRUCTIONS:

Delete and remove from the files the original proposed Exhibit “A” to Ordinance No. 150 of 2021 and substitute the attached **Amendment No. 1 to Ordinance No. 150 of 2021 – Exhibit “A”**.

EXPLANATION OF THE AMENDMENT:

1. This amendment amends Section 78-176 to specify that a permit is required for boring and excavation *in or beneath paved areas* in the right-of-way and/or on City owned property.
2. This amendment amends Section 78-179 to specify that the fee is not required if a franchise agreement exempts the applicant from payment of the fee.
3. This amendment amends Section 78-186 changing the penalty for a first offense from \$1,000 to \$5,000 and any second or subsequent offense to \$10,000. It also adds a requirement that no permit shall be issued if the applicant has any unpaid penalties assessed under this section.

Sec. 78-176. -Persons required to file for permit

Any person or entity that maintains or operates infrastructure and/or facilities in the rights-of-way and/or on City owned property who desire to perform construction, repairs, maintenance, or any other activity which requires a bore or excavation in or beneath any paved area in the right-of-way and/or on City owned property.

However, if there is an emergency condition, as accepted by the Director of Public Work, when repairs are necessary to restore or maintain service other than during normal business hours, the person, business, or owner of the utilities, public or private, need not apply for a permit in advance of making such repairs, but shall comply with all other applicable provisions of this article and apply for a permit within ten (10) business days after such emergency repairs are made.

Sec. 78-177.- Application for permit.

When a permit is required, the permit application shall, unless otherwise authorized by the Director of Public Works for good cause shown, be filed with the City at least five (5) business days prior to the day the applicant seeks to begin construction, repairs, other maintenance, or other activity which requires a bore or excavation in the public right-of-way.

Sec. 78-178.- Application for permit requirements

Each permit application shall contain the following information:

1. A plan prepared by the applicant showing where work is to be performed, with a summary of the expected remediation needed to restore the right-of-way to its original or better condition, along with a listing of all persons directly responsible for the safety on each project to include any address or a telephone listing at which said person can be reached at any hour of the day if a hazardous condition develops.
2. Proof of current Franchise Agreement or Facilities Permit with the City, or proof of authorization to be in the right-of-way granted by the City to be submitted with the initial application, to be updated annually.
3. The name, telephone number, local address, and principal place of business of the permit applicant.
4. The name and day and night telephone number of the engineer, foreman or other person who will oversee the construction or repairs for which the permit is submitted.
5. The times of the day and total number of calendar days the applicant seeks to perform its construction, repairs of other maintenance.

6. A statement signed by the applicant, or a person authorized to bind the applicant, that the applicant hereby assumes all risk with respect to the City for liability for damages that may occur to persons or property on account of the proposed work, whether completed by the applicant or the applicant's agent or sub-contractor completing, installing, or maintaining the work on the applicant's behalf. The applicant shall procure and maintain liability insurance to protect the City from liability and damages on account of injuries to workers, as provided by law, and to protect the City from liability and damages occasioned by the proposed work.
7. A standard barricading layout showing placement of barricades, cones and informational signs used on the project. Access to the right-of-way must be maintained for properties with existing access.

In event of full roadway closures or lane closures on City streets for longer than six hours proof of approval from or proof of pending approval with Traffic Control Plan must be submitted to the Director of Public Works or his designee for review four days prior to closure and that it conforms to the federal Manual on Uniform Traffic Control Devices (MUTCD).

8. An explanation as to the type of equipment to be used, and the nature or type of work that is to be performed along with its location.
9. All 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, Pavement Cut and Repair Standards and the Americans with Disabilities Act.
10. Evidence of a surety bond or policy of insurance or an indemnity bond in favor of the City in an amount of \$10,000.00 upon which the City can draw to correct any problems caused by the applicant's work.
11. Certificate of general liability insurance covering the City against claims, injury or damage to persons or property, both real and personal, caused by the proposed work, in the minimum amount of \$100,000.00/500,000.00 bodily injury and \$100,000.00 property damage.

Sec. 78-179.- Fee

The applicant must pay a fee of \$150 per application unless a franchise agreement exempts the applicant from payment of the fee.

Sec. 78-180.- Permit application approval

The Director of Public Works, or his/her designee, shall offer any objection to the permit application by 5:00 p.m. on the fifth (5th) full business day after such permit application is submitted. Such objection shall be in writing to the individual that submitted the application. If a timely objection to the permit application is lodged, the Director of Public Works, or his/her designee, shall so notify the applicant, in writing, stating the reasons for objection. The applicant may, if it so desires, undertake the revision of the permit application that is the subject of the objection, and resubmit it to the Director of Public Works, or his/her designee, who shall approve the revised permit application, subject to special requirements or disapprove the amended permit application within two (2) business days.

The City may object to permit applications filed under this article for the following reasons:

- (A) The proposed barricading, channelizing, signing, warning or other traffic control procedures or the equipment therefor do not comply with the requirements of the City of Shreveport's Code of Ordinances or other regulations on file and subject to public record.
- (B) The nature of the work to be performed or its location is such that the work may, without imposing any undue hardship on the applicant, be performed without the necessity of excavating the City's right-of-way.
- (C) The work or the manner in which it is to be performed will violate a City ordinance or a state statute.
- (D) Applicant has failed to furnish all the information required by this subsection or, except for good cause shown, to submit the permit application within the time prescribed by this article.
- (E) Applicant has misrepresented or falsified information in the application for permit.
- (F) The project would conflict with other projects, events, and/or for reasons that would be in the interest of the City.
- (G) Applicant has previously failed to comply with this ordinance.
- (H) The Director of Public Works or his designee deems it appropriate and necessary to properly preserve and/or maintain City owned property and/or it is in the interest of public safety.

Sec. 78-181.- Permit application special requirements.

The Director of Public Works, or his/her designee, may at the time he/she receives the permit application require:

- (A) The use of specific location of additional barricades, signals, signs or other traffic control or safety devices, or the pursuance of special traffic control or safety procedures.
- (B) That the work be performed only at certain hours during the day or night or during specified days of the week.
- (C) That only a specified area and/or not more than a specified number of lanes shall be blocked at the same time or at specified times of the day.
- (D) That materials and equipment be moved from the traffic lanes and any excavation in the traffic lane be covered or filled with materials of sufficient strength and construction to permit vehicular traffic to pass over such excavation during all or part of the peak traffic periods or at night.
- (E) When such requirements are deemed necessary by the Director of Public Works, or his/her designee, in the interest of public safety and to avoid traffic congestion, any such special requirements shall be made in writing to the applicant and shall be made a part of the permit application thereof.

Sec. 78-182.- Objections Following the Start of Construction.

The Director of Public Works, or his/her designee, may object at any time, should there be a determination that the applicant's barricading, signing, channelizing, warning or other traffic control procedures or the equipment at the work site does not comply with the requirements of the Code of Ordinances, the specification provided with the permit application or with any special requirements imposed by the Director of Public Works, or his/her designee. The applicant or the person named responsible for or in charge of the work shall first be notified of the failure or defect and work is to stop immediately. The applicant shall have twenty-four (24) hours to correct the defect, else the project will be terminated, and the applicant must return the City owned property to the condition it was prior to work beginning. Under no circumstances should the roadway be blocked while the defect is being remediated, except to restore the site to its proper condition as required herein.

Sec. 78-183.- Excavations or Openings in Newly Constructed, Reconstructed or Resurfaces 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 Director of Public Works as approved by the City Council.

Sec. 78-184.- Restoration.

Upon completion of the work pursuant to this Chapter, or in the event a permit application objection is lodged and not remediated within 24 hours, the applicant shall immediately

commence operations to restore the work area to its proper condition and be completed within fifteen (15) days unless notice is provided to the City for any weather-related delays or delays not caused by the applicant. At all times the applicant is responsible for ensuring that the work site and its surrounding areas are safe, properly barricaded, and properly identified. In addition, except as required to restore the work area to its proper condition, the applicant shall remove all equipment, men, materials, and debris from the worksite. In the event such restoration is not done, the City shall be authorized to and may, at its election, take charge of the work and restore the premises to its proper condition and shall be entitled to recover from the applicant, by civil action, twice the actual expenses incurred by the City in restoring the premises, including but not limited to, cost of labor, materials, overhead, rental of any equipment used by the City in restoring the site and attorney's fees, and for such purposes the City shall have a right of action against any bonds in effect running from the applicant to the City, conditioned upon compliance with the ordinances of the City in the performance of such work.

Sec. 78-185.- Notice at Completion

Upon completion, the applicant shall submit geospatially, and project referenced photos to the City in an application determined by the City. Failure to comply with this section could be grounds for a future application under this section to be denied.

Sec. 78-186.- Penalties

If the Director of Public Works or his designee determines that any permit holder or non-permit holder has performed or is responsible for unacceptable work pursuant to this ordinance, failure of work pursuant to this ordinance, starting work prior to obtaining permit pursuant to this ordinance or any other violation of this ordinance a monetary penalty will be charged to applicant. The penalty for the first offense shall be \$5,000. The penalty for any second subsequent offense shall be \$10,000. No permit shall be issued under Section 78-176 to an applicant with unpaid penalties assessed under this section.

Secs. 78-187 – 78-205.- Reserved.