A guide for Members of the Public Wishing to Undertake Works which Involve Excavation in the Public Highway in the City of York.
Private apparatus is defined as, any pipe, duct, cable or wire installed by, or on behalf of, an **Owner** or **Occupant** of a premises and which, after installation, will remain the property and responsibility of the **Owner** or **Occupant** of the premises served by the apparatus.

To be empowered to install any private apparatus (excluding Sewer Connections to the Public Main) the **Owner** or **Occupant** of the premises must be duly licensed for the installation of that apparatus. Sewer Connections to the Public Main are dealt with in Leaflet No.3.

A Licence is a legally binding agreement between the Licensee and the Highway Authority. It bestows upon the Licensee the status of “Undertaker”. This status provides the Licensee with a number of powers and obligations. Abuse of those powers or failure to fulfil those obligations may result in the licence being revoked and the apparatus being removed or disabled at the licensees expense. It may also render the Licensee liable to prosecution.

**What are your powers?**

A licence once issued empowers the Licensee to:

- a. Install, or have installed on his/her behalf, the specific apparatus identified in the licence at the location identified in the licence.
- b. Retain and use such apparatus for the purpose specified in the licence.
- c. Thereafter to inspect, maintain, repair or replace as necessary such apparatus in order to permit its continued use.
- d. Break open the street and obtain access to the street in the position specified in the licence in pursuance of these powers.

**What are your obligations?**

A licence once issued obliges the Licensee to:

- a. Pay the necessary inspection charges for each and every occasion when works occur. (For the appropriate charges see the current issue of Leaflet No.7).
- b. Issues the necessary notifications of works, for each and every occasion when works occur, in accordance with the procedures laid down in the New Roads and Street Works Act 1991 and outlined in Leaflet No.6.
- c. Ensure that the execution of the works, for each and every occasion when works occur, is performed in a satisfactory manner with particular regard to the Code of Practice, “Safety at Street Works and Road Works”.
- d. Ensure that on each and every occasion when works occur, that such works be supervised by an Accredited Supervisor in accordance with Section 67 of the Act. **From August 1997 there will be additional requirement that an Accredited Supervisor/Operative must be physically present on site whilst works are being performed.**
- e. Indemnify the Highway Authority against all and any claim made be a third party in connection with any aspect of the works.
f. Ensure that the highway is permanently reinstated, for each and every occasion when works occur, to the satisfaction of the Streetworks Engineer and that such permanent reinstatement shall be guaranteed for a period of not less than 2 years from the date of reinstatement (3 years in the case of excavations in excess of 1.5 metres). The standard of reinstatement to be in accordance with the “Specification for Reinstatement of Openings in Highways”. It is permissible to perform an Interim Reinstatement but this must be replaced by the Permanent Reinstatement in a period not exceeding 6 months.

g. Once installed, to maintain the apparatus in a serviceable condition until such time as the apparatus is removed.

h. To notify the Highway Authority in writing prior to any transfer of ownership of the apparatus or the property which it serves.

i. To notify any person to whom title, for the apparatus or the property which it serves, passes on the obligations herein stated. Any remaining warranty obligations are to be transferred with ownership.

j. To provide, as and when requested by any person having reasonable cause, information regarding the location of the apparatus. Such information to be provided within 10 working days of request.

How do you obtain a licence?

Look at the flow diagram (figure 2a) below, this will guide you through the licensing process.

Start at the top left and read each box in turn, the double-boxes are questions which can be answered yes or no. If you reach the “yes” box you may proceed, if you are led to the STOP sign you may not proceed.

To install a new private apparatus to provide electricity, water, gas or communications.

Are you the current Owner or Occupant of the premises to be served by the new apparatus?

Licensee/Agent receives completed licence. The Licensee is now an Undertaker within the meaning of the Act for the purpose of the apparatus specified in the licence.

Apply for a licence in the name of the Owner or Occupant of the premises to be served by the new apparatus.

Are you the agent or contractor for the current Owner or Occupant of the premises which are to be served by the new apparatus?

STOP
You may NOT proceed

Obtain Leaflet No.6 Notifying the Works

Figure 2a. Private Apparatus
Action 1. You are to complete Part 1 of the Application Form (copy attached), and submit it, along with a location diagram, showing the proposed alignment of the apparatus, and a cheque for the administration charge (see Leaflet No. 7 for current charges), to the City of York Council.

Action 2. The City of York Council will complete Part 2 of the application form.

Action 3. The City of York Council will notify all Undertakers and Licence Holders who may be affected by your proposed works of the intention to issue a licence, at the same time asking them to provide copies of existing records showing the location of their apparatus.

This notification provides the opportunity for the affected Undertakers or Licence Holders to advise the potential licensee of the safety hazards involved with their apparatus, any protective measures necessary to prevent damage to that apparatus or suggest to the Highway Authority any special conditions which should be applied to the licence. The Statutory Undertakers and other Licence Holders are required to respond to these enquiries within a Statutory Period (10 working days), if they fail to respond within that time it will be presumed that they have no objection to the issue of a licence.

Action 4. At the end of the Statutory Period a licence will be prepared and sent to the applicant for signature. The applicant is advised to read the document carefully as the terms are legally binding. Failure to comply with the terms of the licence could result in it being revoked and the apparatus being rendered unserviceable, at your expense.

Action 5. Having read and signed the licence you are to return it for completion. The licence will be signed on behalf of the City of York Council, the original will be retained and a copy returned to you for your records. Once you have received your copy of the completed licence you are a Licensee and as such an Undertaker within the meaning of the New Roads and Street Works Act 1991. You are now licensed to place and retain the apparatus specified in your licence in the location specified in the licence and thereafter inspect, maintain, adjust, alter or renew that apparatus. In short: -

YOU ARE A PRIVATE UNDERTAKER.

Please note this does not mean that you may now rush out and dig a hole. As an Undertaker you are required to formally Notify the works. How this is to be done is outlined in Leaflet No.6.
BIBLIOGRAPHY

The following documents are HMSO publications and provide the source information for the production of SO YOU WANT TO DIG. All are available from good bookshops.

<table>
<thead>
<tr>
<th>Document Title</th>
<th>ISBN Number</th>
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<tbody>
<tr>
<td>New Roads and Street Works Act 1991</td>
<td>0-10-542291-6</td>
</tr>
<tr>
<td>Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters.</td>
<td>0-11-551162-8</td>
</tr>
<tr>
<td>Code of Practice for Inspections</td>
<td>0-11-551148-2</td>
</tr>
<tr>
<td>Specification for the Reinstatement of Openings in Highways.</td>
<td>0-11-551143-1</td>
</tr>
<tr>
<td>Safety at Street Works and Road Works, Code of Practice</td>
<td>0-11-551144-X</td>
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The following leaflets comprise the series SO YOU WANT TO DIG and can be obtained from: Streetworks, The City of York Council, West Offices, Station Rise YORK YO1 6GA.

- Leaflet 1. General Information
- Leaflet 2. Guide to Obtaining a licence
- Leaflet 5. Guide to Working on Existing Apparatus and Sewers

This document is based upon a series of leaflets, titled: “SO YOU WANT TO DIG” developed by North Yorkshire County Council.
Application to Install and Retain a Private Apparatus in a Publicly Maintainable Highway.

This form should be submitted to: Streetworks, West Offices, Station Rise, YORK YO1 6GA

**PART ONE**

1 To:-
   Name
   Address
   Postcode    Daytime Tel. No.

2 Name and Address of Applicant
   (Name of person or persons in whose name licence is to be issued)
   Applicant’s Name
   Address
   Postcode    Daytime Tel. No.

   Is correspondence to be sent to the Licensees Agent? (if YES please complete agent details below)
   Answer YES or NO

3 Name and Address of Agent
   Agent’s Name
   Address
   Postcode    Daytime Tel. No.

4 Apparatus Details
   Purpose:
   Brief Description of Apparatus
   (including material, diameter/size etc.)

5 Location Details

<table>
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<th>Position</th>
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Please provide a licence in accordance with Section 50 of the New Roads and Street Works Act 1991, to install and maintain the apparatus detailed above in the location detailed above.

Find attached a plan showing the intended location of the apparatus and a cheque in respect of the licence administration charge as detailed in Leaflet No. 7.

I understand that the location of the apparatus may have to be changed subject to the Statutory Enquiries which will be made by the Highway Authority.

Signature of Licensee/Agent*  
(*Delete as appropriate)