A guide for Members of the Public Wishing to Undertake Works which Involve Excavation in the Public Highway in the City of York.
Section 106 of the Water Industries Act 1991 states that the Owner or Occupant of a property has a RIGHT to connect to a Public Main for the purpose of discharging foul water or surface water. It specifically precludes the discharge of commercial waste, eg. Liquid from a manufacturing process.

The effects of this section of the Water Industries Act are to bestow, automatically upon the Owner or Occupant of a premises the status of “Undertaker”. This status provides the Owner or Occupant with a number of powers and obligations. Abuse of those powers or failure to fulfil those obligations may prove costly and in some cases may lead to prosecution.

What are your Powers?

An Owner or Occupant of a premises is empowered to:

a. Install, or have installed on his/her behalf, a pipe or pipes in the Highway specifically to discharge surface water and domestic foul water into the nearest Public Sewer Main, subject only to the permission of the Sewer Authority responsible for that sewer. Permission cannot be unreasonably withheld.

b. Retain and use such sewer for the purpose authorised be the Sewer Authority.

c. Thereafter to inspect, maintain, repair or replace as necessary the sewer in order to permit its continued use.

d. Break open the street and obtain access to the street in pursuance of these powers.

What are your obligations?

An Owner or Occupier of a premises exercising his/her powers to install a sewer is obliged 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 City of York Council 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 sewer in a serviceable condition until such time as the sewer is removed.

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

i. To notify any person to whom title, for the sewer 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.

What must you do?

3.5 Look at the flow diagram (figure 3a) below, this will guide you through the steps to be taken.

3.6 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.

Figure 3a. Private Sewer
3.7 **Action 1.** Contact the Sewer Authority and obtain formal written permission to connect the premises to the public main. This permission cannot be unreasonably withheld but may involve charges imposed by the Sewer Authority. Once you have obtained this permission you will be able to identify where the sewer is, and select a provisional route between the premises to be served and the main.

3.8 **Action 2.** Having selected the route you **must** contact the **Highway Authority** and all **Statutory Undertakers** and **Private Undertakers** whose apparatus may be affected by your intended works and advise them of your intentions. At the same time you are advised to request copies of their plans showing the location of their apparatus, and any safety instructions (these should be provided free of charge). The City of York Council’s Highway Management Section will be able to provide a list of addresses appropriate to the site of your planned works.

With this information it may be appropriate to reassess your route.

3.9 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>
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<tr>
<td>Code of Practice for Inspections</td>
<td>0-11-551148-2</td>
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<td>Specification for the Reinstatement of Openings in Highways.</td>
<td>0-11-551143-1</td>
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<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: Street Works, West Offices, Station Rise, YORK YO1 6GA.

Leaflet 1. General Information Leaflet 2. Guide to Obtaining a licence

This document is based upon a series of leaflets, titled: “SO YOU WANT TO DIG” developed by North Yorkshire County Council.