SO YOU WANT TO DIG

A guide for Members of the Public Wishing to Undertake Works which Involve Excavation in the Public Highway in the City of York.
4.1 If you are not an Undertaker as defined under Section 50 of the New Roads and Street Works Act 1991 or under Section 106 of the Water Industries Act 1991 but have reason to excavate in the Highway you should contact the Streetworks Section of the City of York Council and discuss your intentions. If your purpose is reasonable and necessary a “Permission” may be granted for the following purposes:

a. Investigatory Works to identify soil conditions.

b. Investigatory Works to identify the alignment of unrecorded apparatus.

c. Investigatory Works to identify a fault with a structure close to the Highway Boundary which cannot be investigated in any other way. The Permission would normally be extended to the necessary works if repairs to the structure were confirmed.

4.2 A “Permission” granted under Section 171 of the Highways Act 1980 is a legally binding agreement between the Applicant and the Highway Authority. It bestows upon the Applicant the status of “Undertaker”. This status provides the Applicant with a number of powers and obligations. Abuse of those powers or failure to fulfil those obligations may result in prosecution.

**What are your Powers?**

4.3 A person granted “Permission” is empowered to:

a. Perform work in the Highway for the specific purpose stated in the Permission.

b. Break open the street and obtain access to the street in pursuance of these works.

**What are your obligations?**

4.4 A person exercising his/her powers granted in a Permission is obliged to:

a. Pay the necessary inspection charges. (For the appropriate charges see the current issue of Leaflet No.7).

b. Issues the necessary notifications of works 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 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. Assignment of Legal responsibility for the works to another party is not permitted.

What must you do?

4.5 Look at the flow diagram (figure 4a) below, this will guide you through the steps to be taken.

4.6 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.

4.7 Action 1. Write to Streetworks, City of York Council outlining your proposal, stating specifically the reason for the works and why it cannot be performed without excavating in the Highway. Your proposal letter is to be accompanied by a cheque for the administration charge (see Leaflet No 7 for current charges). The Streetworks Engineer will consider your proposal and either grant or refuse permission. He may ask to discuss the matter either at his office or on site before he makes his decision. If permission is granted proceed to Action 2.

4.8 Action 2. You are to contact all those 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 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 amend your proposal to Streetworks Engineer.

YOU ARE A PRIVATE UNDERTAKER

4.9 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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<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, 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