

**CODE OF  
PRACTICE ON  
PRIVATE STREET  
WORKS**

# INDEX

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*Revised June 1996*

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## 1. INTRODUCTION

- 1.1 The following Code of Practice approved by the Highways and Transportation Committee in June 1993 replaces an earlier code which was approved in 1975.

The new Code of Practice has been formulated following discussions with District Council Engineers and consultations with District Councils.

- 1.2 The Code covers the following subjects all of which are delegated to District Councils under the Highways Agency Agreement:-

- i) Making up of streets by a District Council under the Private Street Works Code of 1892.
- ii) Advance Payments Code– deposits and Section 38 Agreements (Highways Act 1980).
- iii) Adoption procedures in respect of new estate roads constructed by developers.

- 1.3 Documents to be referred to in conjunction with this Code of Practice are:-

- i) The Specification for the Construction of Estate Roads 1992.
- ii) Model Agreement under Section 38 of the Highways Act 1980.

- 1.4 District Councils require no authority from the County Council to initiate primary consideration and preparation of private street works schemes, but are advised to consult the County Surveyor as to the availability of resources from the Private Street Works Capital Programme before inviting tenders for a scheme.

- 2. MAKING-UP OF PRIVATE STREETS IN ACCORDANCE WITH THE CODE OF 1892**
- 2.1 a) The payment by the street works authority in respect of domestic flank frontages shall be one third of the expenses apportioned on the premises where the flank frontager has a garage access to the street being made up.
- b) The payment by the street works authority in respect of domestic flank frontages shall be one half of the expenses apportioned on the premises where the flank frontage has a pedestrian access only to the street being made up.
- c) The payment by the street works authority in respect of domestic flank frontages shall be two-thirds of the expenses apportioned on the premises where the flank frontage has no access of any kind to the street being made up.
- d) Notwithstanding a), b) and c) above, the charge on a domestic flank frontage of any description shall not exceed the average charge on the principal frontages to the street being made up.
- e) Where a flank frontage is associated with a business use of premises, there shall be no contribution towards the flank frontage costs by the street works authority.
- f) The contribution towards the cost of rear frontages to a street being made up to adoption standards shall be one third of the frontage costs.
- g) The County Council will meet all costs which are extra commercium.
- 2.2 Where it is necessary, in order to drain the street, to provide a surface water sewer where none exists, the cost within the limits of the street to be met by the frontagers as part of the overall street works charges.
- 2.3 Vehicle crossings, in all cases, to be provided as part of the overall street works costs.
- 2.4 Only where it is established after consultation with the Statutory Undertaker concerned that the cost of diversion of services is to be met by the street works authority, will this cost be met by the County Council?
- 2.5 The District Council shall approve the street lighting design in accordance with the County Surveyor's street lighting specification. Where no lighting exists, then the cost shall be met by the frontagers as part of the overall street works costs.
- 2.6 All schemes to be prepared on a frontage basis. If a District Council desires to use the degree of benefit provisions then the prior approval of the County Council shall be obtained. The apportionments on frontagers shall include an administration fee in accordance with the following scale:-
- a) Where all the Private Street Works procedures are involved in a scheme there shall be a minimum administration fee of £1,000. Otherwise the rule of "no scheme, no fee" applies.
- b) For schemes costing between £10,000 and £50,000, the administration fee shall be 10% of the tender figure.

- c) For schemes costing over £50,000 and up to a maximum of £90,000, the administration fee shall be based on the following scale. Above £90,000, the administration fee shall be 7.5% of the tender figure.

£50,001 - £60,000	-	£5,225
£60,001 - £70,000	-	£5,850
£70,001 - £80,000	-	£6,675
£80,001 - £90,000	-	£6,800
£90,001 and over	-	7.5%

- 2.7 The District Council shall determine objections to the making up of private streets under Section 209 of the Highways Act 1980, except for those under Sub-Section 1(a). Objections claiming the private street is not a private street shall not be accepted or referred to the Magistrates' Court without the prior approval of the County Council.
- 2.8 A copy of the plan, estimate and provisional apportionment shall be sent to the County Surveyor for his information.
- 2.9 The County Council shall be advised when adoption is operative.
- 2.10 Where under the relevant statutory provisions notices are required to be served or posted, these notices should, when appropriate, indicate any right of appeal and or objection even when this is not a statutory requirement.

### **3. ARRANGEMENTS FOR REIMBURSEMENT OF EXPENDITURE AND COLLECTION OF INCOME**

- 3.1 The District Council shall apply to the County Council for reimbursement of all costs in accordance with the Financial Memorandum on Highways Agency Arrangements.
- 3.2 The costs to be reimbursed to District Councils shall include the total contract figure, the cost of street lighting, the appropriate administration fee and the cost of any land purchases.
- 3.3 The District Council shall collect the amount of the final apportionment, including the appropriate administration charge, plus interest where appropriate from the frontagers and shall pay all private street works income collected to the County Treasurer at monthly intervals.
- 3.4 Arrangements shall be made for frontagers where requested to repay the amount of the final apportionment by installments over a period of not normally exceeding 10 years. This limit should only be exceeded in exceptional circumstances, where the District Council are satisfied that undue hardship will be caused and in this event the maximum period must not exceed 30 years.
- 3.5 If the full amount of the final apportionment is paid within three calendar months from the date of the Notice, no interest should be charged. However, should the frontager wish to discharge the full sum, a condition of the acceptance of payment by installments should be that, should the frontager fail to make payment of any installment by the due date, or should any transfer of ownership of the property referred to in the Notice occur, the outstanding balance of the principal sum apportioned to the premises, plus interest thereon, would at once become payable. Under the installment arrangements, the frontager should be required to pay an initial sum forthwith (if paid within three months of the date of the notice, no interest should be charged upon this initial sum) followed by a number of annual payments depending upon the period over which the frontager wishes the payments to be spread, the first of which will become due on the anniversary of the date of the Notice.

### 4.1 Deposits

The District Council will administer the Advance Payments Code entirely, subject to the use of an agreed specification and a calculation for the deposit figure. Where deposits are made and the street is subsequently made up by the Developer and accepted for adoption on completion of the maintenance period, a 90% repayment may be made to the developer, after consultation with the frontagers in accordance with Section 221 of the Highways Act 1980.

### 4.2 Section 38 Agreements

1. the Agreement to be supported by a Surety or cash Deposit;
2. a maintenance period of 12 months;
3. the bond figure to be reduced by 90% at the commencement of the maintenance period, the remaining 10% being retained until after all the streets have been adopted;
4. the cost of street lighting to be met by the developer;
5. where the developer has produced a layout and, in the opinion of the District Council it would present unusual maintenance problems, then before entering into an agreement, they shall discuss the layout with the County Surveyor.

## 5. ADOPTION PROCEDURE

5.1 Developers to supply the District Council with street works details, to include a plan, longitudinal section, typical cross-section, gully positions and surface water details. The District Council shall supply the County Surveyor with a copy of the finally approved plan before work commences on site.

5.2 The District Council shall supervise the construction of all new streets, in liaison with the County Council's Divisional Surveyor. A final joint inspection to take place after a request for adoption has been made by the developer.

The formal adoption procedure to be carried out by the District Council. When adoption is operative, the District Council shall supply the County Council with a copy of a plan showing street names and house numbers and length of adopted highway indicated in colour.