STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC COMPANY,
d/b/a NATIONAL GRID, Plaintiff

v. **Docket No. 3858**

THE TOWN OF PORTSMOUTH, et al.

OJBECTION OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS TO DEFENDANTS' MOTION TO DISMISS

The Division of Public Utilities ("Division") hereby objects to the Town of Portsmouth's Motion to Dismiss the Petition for Review Under § 39-1-30. In support of its opposition to the motion, the Division submits the accompanying memorandum of law.

DIVISION OF PUBLIC UTILITIES
AND CARRIERS
By its attorneys,

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THE NARRAGANSETT ELECTRIC COMPANY,
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MEMORANDUM OF LAW OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS IN SUPPORT OF ITS OBJECTION TO DEFENDANTS' MOTION TO DISMISS

I. INTRODUCTION

On January 29, 1996, February 5, 1996 and February 12, 1996, the Town of Portsmouth ("the Town" or "Portsmouth") published a "Notice of Public Hearing-Proposed Amendment to the Zoning Ordinance" in the Newport Daily News. The Notice informed readers of that paper that a public hearing would be held on February 20, 1996 at 7:00 p.m. in the Town Council Chambers, 2200 East Main Road, Portsmouth, Rhode Island regarding "An Ordinance of the Town of Portsmouth, R.I. regulating street excavations and curb cuts" (the "Ordinance"). A copy of the Ordinance is attached hereto and marked "Exhibit A." Among other provisions, the Ordinance provides as follows:

> Section 8. Fees for excavations. The fees for all street and sidewalk excavations shall be sixty ($60.00) dollars for the first fifteen (15) linear feet or part thereof of any excavations, and eight ($8.00) dollars for each additional five linear feet or part thereof. The length of the excavation shall include the total length of mains and laterals.

According to Portsmouth, on February 20, 1996, the Town enacted Ordinance Number 96-2-20 A. In or about late June of 2007, The Narragansett Electric Company, d/b/a National Grid ("Narragansett Electric") received an invoice in the amount of $4,836.00 in connection with a permit application to install 3,000 feet of gas main piping on Wapping Road in Portsmouth. In or about late June or July of 2007, Narragansett Electric wrote to Portsmouth's Director of Public Works inquiring as to the basis for the fee among other matters. On or about August 6, 2007, Narragansett Electric received a letter dated August 1, 2007 from the Town Administrator informing the Company that Narragansett Electric would be required to pay the Town the invoice dated June 18, 2007. According to Narragansett Electric, the Town had not enforced the Ordinance against the Company prior to June of 2007. On information and belief, in 1996 the Wapping Road area of Portsmouth was served by The Providence Gas Company ("Providence Gas"), which was acquired by Southern Union Company ("Southern Union"), d/b/a New England Gas Company ("NEG") in or about 2000. Southern Union sold the assets of Providence Gas, along with all its other Rhode Island natural gas distribution assets to Narragansett Electric Company in 2006. Narragansett Electric owns and operates its Rhode Island electric distribution assets, and, on information and belief, owns and operates its Rhode Island natural gas distribution assets.

On August 10, 2007, Narragansett Electric filed a Petition for Review pursuant to § 39-1-30, contending among other things: (i) the Commission possesses the exclusive power and authority to supervise, regulate and make orders governing the conduct of companies offering public utility services in intrastate commerce energy, *etc.* and therefore, the Ordinance is preempted by state law, (ii) Portsmouth has not, prior to 2007,

enforced the Ordinance against Narragansett Electric or its predecessors-in-interest, and (iii) Portsmouth's fee structure of "sixty ($60.00) dollars for the first fifteen (15) linear feet or part thereof of any excavation, and eight ($8.00) dollars for each additional five linear feet or part thereof" has no reasonable or demonstrable relationship to the costs incurred by Portsmouth in processing a permit application for street excavations by a public utility; therefore, the fee structure is illegal, arbitrary and capricious. Portsmouth now seeks dismissal of Narragansett Electric's petition on the ground that Narragansett Electric's petition was allegedly filed outside the 10-day appeal time-period provided by G.L. § 39-1-30.

II. STANDARD OF REVIEW

In reviewing a motion to dismiss, the Commission, like the Superior Court, must look only to the petition, consider all allegations raised in the petition as true, and must resolve any doubts in favor of the non-moving party. Giuliano v. Pastina, Jr., 793 A.2d 1035, 1036-37 (R.I. 2002) (quoting Martin v. Howard, 784 A.2d 291, 297-98 (R.I. 2001)). "The motion may then only be granted if it 'appears beyond a reasonable doubt that a [non-movant] would not be entitled to relief under any conceivable set of facts.'" Toste Farm Corp. v. Hadbury, Inc., 798 A.2d 901, 905 (R.I. 2002) (quoting Estate of Sherman v. Almeida, 747 A.2d 470, 473 (R.I. 2000)). In other words, the Commission should not grant a motion to dismiss "unless it appears to a certainty that [the petitioner] will not be entitled to relief under any set of facts which might be proved in support of [their] claim." Giuliano, 793 A.2d at 1037 (quoting Bragg v. Warwick Shoppers World, Inc., 227 A.2d 582, 584 (R.I. 1967)). This is a difficult standard to meet. Pellegrino v.

Rhode Island Ethics Comm'n, 788 A.2d 1119, 1123 (R.I. 2002); Diciantis v. Wall, 795 A.2d 1121, 1125 (R.I. 2002).

III. ARGUMENT

A. The Ten-Day Period Of Appeal Provided By § 39-1-30 Is Directory, Not Mandatory.

In Providence Teachers Union, Local 958, Am. Fed'n of Teachers, AFL-CIO v. Providence Teachers Union, Local 958 Am. Fed'n of Teachers, AFL-CIO, 319 A.2d 358, 363 (R.I. 1974), § 7-5.3 of a collective bargaining agreement provided that, "[t]he arbitrators shall call a hearing to be held within ten (10) days after their appointment..." The arbitrator, however, commenced a hearing 36 days after his appointment. It was alleged the delay was fatal to the validity of the arbitration. Id.

The Rhode Island Supreme Court, however, held otherwise. Id. at 364. According to the Supreme Court, § 7-5.3 was designed solely to "secure order, system and dispatch" (*i.e.,* to have the matters speedily attended to by the arbitration panel). Id. The Court confirmed this interpretation by observing that the provision did not contain "negative words . . . expressive of an intention to make compliance a condition precedent to action." Id. Section 7-5.3, the Court held, was "directory" not "mandatory. Id. Due to this "directory" nature, the fact that the hearing transpired outside the ten (10) day time-period did not render the hearing illegal in any manner. Id.

Subsequently, the Supreme Court broadened this general rule of statutory construction to embrace the instance where the evident purpose of the statute is remedial. In re: John Doe, 440 A.2d 712, 716 (R.I. 1982). That is, in situations "where a mandatory construction might do great injury to persons not at fault" or where delay of a

public officer might "prejudice private rights or the public interest," the statute "is construed to be directory." Id.

The aforementioned precedent governs the 10-day time-period afforded to Narragansett Electric under § 39-1-30. Section 39-1-30 does not contain "negative words" "expressive of an intention to make compliance a condition precedent to action." Providence Teachers Union, 319 A.2d at 363. Rather, the express language and the evident purpose of § 39-1-30 are merely to ensure rapid Commission consideration of a contested ordinance. Even more importantly, a mandatory reading of the 10-day time-period would do "great injury to persons not at fault," and certainly, would "prejudice the public interest." In re: John Doe, 440 A.2d at 716.

Narragansett Electric did not acquire the natural gas distribution assets that are the subject of the instant petition until 2006. Narragansett Electric's predecessor-in-interest, Southern Union, did not acquire its interest in the same assets until 2000 through its acquisition of Providence Gas. Narragansett Electric simply cannot be deemed "at fault" for any failure to file a § 39-1-30 petition in 1996 when, at that time, the Company did not have an interest in the distribution assets that would necessitate the Company to contest the Ordinance.

A mandatory reading of the 10-day time-period would unfairly cut off Narragansett Electric's right to contest the Ordinance, thereby costing the Company's shareholders tens of thousands of dollars in perpetuity in unreasonable excavation fees. Inevitably, Narragansett Electric's shareholders would seek to pass these costs on to the Company's ratepayers in a future base rate filing. Thus, a mandatory reading of the 10-day time-period would greatly "prejudice the public interest" as well.

The holdings of Providence Teachers Union and In re: John Doe require the Commission to construe the 10-day appeal period contained in § 39-1-30 as directory rather than mandatory. For this reason alone, Portsmouth's motion to dismiss must be denied.

B. The Discovery Rule Requires The Commission To Deny The Town's Motion To Dismiss.

Even if the Commission were to construe the 10-day period as mandatory, on the state of the current record, the Discovery Rule provides ample basis to conclude that the 10-day period was tolled until August 6, 2007 when Narragansett Electric learned that Portsmouth intended to enforce the Ordinance against the Company.

The Rhode Island Supreme Court has recognized tolling of statutes of limitations in certain actions. For example, in medical malpractice actions, the Supreme Court has held that a cause of action does not accrue for the purpose of the statute of limitations until the plaintiff discovers, or in the exercise of reasonable diligence, should have discovered that he has sustained an injury. Wilkinson v. Harrington, 243 A.2d 745, 753 (R.I. 1968). The Supreme Court has extended the Discovery Rule to actions arising from damage to real property; Lee v. Morin, 469 A.2d 358, 360 (R.I. 1983), product liability actions involving drugs; Anthony v. Abbott Laboratories, 490 A.2d 43, 45 (R.I. 1985), slander claims upon a showing of compelling circumstances; Mills v. Toselli, 819 A.2d 202, 205 (R.I. 1997); and legal malpractice actions, Canavan v. Lovett, Schefrin and Harnett, 862 A.2d 778, 786 (R.I. 2004). See also Schock v. United States, 21 F. Supp.2d 115, 119 (D.R.I. 1998) (holding that the Discovery Rule applies to Federal Tort Claims Act conversion cases).

The Discovery Rule is applicable in the circumstances of the pending matter. The wrongful imposition of an unreasonable economic restriction by a municipality is little different than a tortious injury involving economic harm. In both instances, the blameless party or entity suffers the loss of important rights as a consequence of the conduct of another and economic harm flows from the loss.

According to Narragansett Electric in or about late June of 2007, the Company received an invoice in the amount of $4,836.00 in connection with a permit application to install 3,000 feet of gas main piping on Wapping Road in Portsmouth. In or about late June or July of 2007, Narragansett Electric wrote to Portsmouth's Director of Public Works inquiring as to the basis for the fee among other matters. On or about August 6, 2007, Narragansett Electric received a letter dated August 1, 2007 from the Town Administrator informing the Company that the Town would be requiring the Company to pay the invoice dated June 18, 2007.

Portsmouth simply has not shown that Narragansett Electric discovered, or in the exercise of reasonable diligence should have discovered, the existence of the Ordinance, which the Town intended to enforce against the Company, prior to August 6, 2007. In fact, the record supports precisely the opposite conclusion. That is, that neither Narragansett Electric nor its predecessors-in-interest knew or should have known that the Town intended to enforce the Ordinance against the Companies prior to August 6, 2007.[1] The Discovery Rule requires the Commission to hold that the 10-day appeal period contained in § 39-1-30 was tolled until August 6, 2007. Narragansett Electric's petition

[1] The Town's letter dated August 1, 2007, addressed to Narragansett Electric, does not inform the company of the Ordinance's existence.

(filed August 10, 2007), therefore, was timely filed. It follows that the Commission must deny Portsmouth's motion to dismiss.

C. The Doctrine Of Laches Requires The Commission To Deny The Town's Motion.

In order to determine whether the doctrine of laches is applicable, the Rhode Island Supreme Court has held that a court must determine whether there was negligence on the part of a party that led to delay, and if so, whether that delay prejudiced the another party. O'Reilly v. Gloucester, 621 A.2d 697, 702 (R.I. 1993). According to the Supreme Court, laches is an "equitable" doctrine. When a party, "knowing his rights . . . takes no steps to enforce them until the condition of the other party has, in good faith, become so changed that he cannot be restored to his former state, if the right be then enforced, delay becomes inequitable and operates as an estoppel against the assertion of the right." Chase v. Chase, 20 R.I. 202, 203-04 (R.I. 1897). See also Adam v. Adam, 624 A.2d 1093, 1096 (R.I. 1993). "The disadvantage may come from loss of evidence, change of title, intervention of equities or other causes..." Id. Whether a party is guilty of laches is a question of fact. Fitzgerald v. O'Connell, 860 A.2d 234, 241 (R.I. 1978).

Narragansett Electric contends, and Portsmouth does not contest, that Portsmouth did not enforce the Ordinance between February 20, 1996 and August 6, 2007. It is also undisputed that in 1997, in Docket No. 2624, Providence Gas successfully defended an action involving a similar ordinance of the City of Cranston. Similarly, it is undisputed that in 2003 in Docket No. 2641, NEG also successfully defended an action involving a similar ordinance and set of regulations of the City of Providence. Had either Providence Gas, NEG (or the Division for that matter) known of the Ordinance or that Portsmouth

intended to enforce the Ordinance, any one of these participants could have sought to join Portsmouth as a party in either of the aforementioned dockets.[2] Portsmouth's delay in failing to enforce the Ordinance between February of 1996 and August of 2007 forever precluded Narragansett Electric's predecessors or the Division from asserting their rights in these proceedings to their detriment and to the detriment of the public. As a result, the Town's significant "delay" in enforcing the Ordinance has become so "inequitable" as to estop the Town from asserting § 39-1-30's 10-day time-period as a bar to Narragansett Electric's § 39-1-30 petition. It follows that the Commission should deny Portsmouth's motion to dismiss.

D. The Commission Should Exercise Its Plenary Jurisdiction And Review Narragansett Electric's Petition For Review On The Merits.

The arguments discussed above in Part III (A)(B) & (C) of this memorandum are more than adequate to require the Commission to deny Portsmouth's motion to dismiss. Even if the Commission should hold otherwise, the Rhode Island Supreme Court has held that the first paragraph of § 39-1-30 together with § 39-1-1(c) and § 39-1-3 vests the Commission with the "exclusive power and authority to supervise, regulate, and make orders governing the conduct of utility companies." Town of East Greenwich v. O'Neil, 617 A.2d 104, 110 (R.I. 1992). Repeatedly, the Court has held that "Title 39 is replete with examples of the broad reach of the Commission's authority." Id. at 110. This broad authority extends to the exclusive power to supervise, regulate, and make orders

[2] Providence Gas settled Docket No. 2624 with the City of Cranston. After substantial litigation, NEG partially settled Docket No. 2641 with the City of Providence. The Commission approved the former settlement by Order No. 15919 on September 7, 1999. The Commission approved the partial settlement by Order No. 17857 on May 28, 2004. The type of provision that resembles the Portsmouth Ordinance (fees for excavations) and that was initially enacted by Cranston and Providence was not incorporated into either settlement.

governing the conduct of companies offering all of the utility services designated in § 39-1-3(a), In re: Island Hi-Speed Ferry, 746 A.2d 1240, 1244 (R.I. 2000), including the "power to review ordinances or regulations promulgated by any town or city 'affecting the mode or manner of operation or the placing or maintenance of the plant and equipment of any company under the supervision of the commission.'" In Re: Petition for Review Pursuant to § 39-1-30 of Ordinance Adopted by the City of Providence, 745 A.2d 769, 774 (R.I. 2000). The broad reach of these powers is derived from language of the express grants themselves and the "clear legislative intent" to express the same "statutory sentiment" by the overall statutory scheme of § 39-1-1, *et seq.* See Rhode Island Chamber of Commerce Fed'n v. Burke, 443 A.2d 1236, 1237 (R.I. 1982).

The General Assembly's intent to grant the Commission broad power to supervise, regulate and make orders regarding public utilities is further evidenced by G.L. (1997 Reenactment) § 39-1-38. That section provides as follows:

> The provisions of this title shall be interpreted and construed liberally in aid of its declared purpose. The commission and the division shall have, in addition to powers specified in this chapter, *all additional,* implied and incidental power which may be proper or necessary to effectuate their purposes. No rule, order, act or regulation of the commission and of the division shall be declared inoperative, illegal, or void for any omission of a technical nature.

G.L. § 39-1-38 (emphasis added).

Just like the ordinance in O'Neil and the regulations in City of Providence,[3] the Ordinance in the pending matter "does affect the placing and maintenance of equipment of utility companies and the ability of the utilities to connect their services by lines, pipes, wires or other implements to buildings occupied by utility customers." City of

[3] The ordinance in O'Neil contained a 3-year prohibition on the construction of high voltage electric transmission lines greater than 60 kilowatts. Among other provisions, the ordinance/regulations in City of Providence required the payment of indexed pavement degradation fees.

Providence, 745 A.2d at 774. Section 39-1-1(c), 39-1-3, § 39-1-38 and the first paragraph of § 39-1-30 "clearly grant to the Commission the power to review the Ordinance," regardless of whether or not Narragansett Electric has satisfied § 39-1-30's 10-day time-period. Id. As enforcement of the Ordinance will result in detrimental consequences to ratepayers, the Division urges the Commission to exercise its plenary authority over utility rates and facilities and adjudicate the merits of Narragansett Electric's petition. The Commission, therefore, should deny Portsmouth's motion to dismiss.

IV. CONCLUSION

For the foregoing reasons, the Division requests the Commission to deny Portsmouth's motion to dismiss.

DIVISION OF PUBLIC UTILITIES
AND CARRIERS
By its attorneys,

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Providence, Rhode Island 02903
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EXHIBIT A

Town of Portsmouth

2200 East Main Road / Portsmouth, Rhode Island 02871

Carol Zinno
Town Clerk

(401) 683-2101

96-2-20A

AN ORDINANCE OF THE TOWN OF PORTSMOUTH, RHODE ISLAND, REGULATING STREET EXCAVATIONS AND CURB CUTS.

BE IT ORDAINED AS FOLLOWS:

Section 1: Approval needed for curb cuts. Any person owning or leasing land abutting any public street or sidewalk in the Town of Portsmouth, who desires to have an entrance, curb cut or driveway installed in such public street or sidewalk, shall make application therefor to the director of public works. The applicant shall file a plat or plan, in the manner and form prescribed by the director, showing the proposed location and dimensions of such entrance, curb cut or driveway.

Section 2: Action by director of public works. The director shall, within fifteen (15) days of the receipt of the application, investigate the necessity of such entrance, curb cut or driveway, and in so doing, shall take into consideration the public welfare, traffic hazards, danger to pedestrians and the public generally, and any and all matters pertaining thereto, and shall act upon and approve or disapprove the application.

Section 3: Notice upon disapproval. If the director disapproves the application, he shall notify the applicant of his action. The applicant shall have the right to appeal from the action of the director within ten days thereafter to the town council. After hearing said appeal, the council shall affirm, modify or reverse the action of the director.

Section 4: Action after approval. If the director approves the application, or, if the council, upon appeal, approves the application, the director shall notify the applicant of such approval, and the applicant shall hire a suitable contractor to do the work required, which work shall be done only under the supervision of the director or his designee, and the applicant shall pay all costs of such work.

Section 5: Fee for curb cuts. The fee for having an entrance, curb cut or driveway installed shall be forty ($40.00) dollars, which sum shall be paid at the time the application is made.

Section 6: Permit required for street excavations. No person shall connect any land or premises with any main drain or common sewer, or open any drain or sewer belonging to the town, or break ground or make any excavation in any of the sidewalks, streets or public places in the town for the purpose of making a drain or sewer or laying or placing gas pipes or water pipes or for any other purpose, without first obtaining a permit therefor from the director of public works, who shall first ascertain the feasibiliy of such excavations in relation to utilities with services in the affected areas. Such person applying for a permit shall provide such information as the director may require. For such permit, the person obtaining the same shall pay the director a fee as set forth herein, and such person shall provide for proper traffic control and properly light and barricade such excavation to the satisfaction of the director.

96-2-20A

Section 7. Fee establised. All fees payable for street and sidewalk excavations shall be payable at the time application for a permit is made. However, in case of an emergency occurring between the hours of 3:00 p.m. and 7:00 a.m. necessitating an excavation for the purpose of making repairs to a gas main, water main, cable or electric conduit or for any other purpose, the person required to make such excavation shall not be first required to obtain a permit. Such person shall, however, before making such excavation, advise the police department and the fire department of the location where the excavation is to be made and the nature of the emergency. Such person shall apply for the required permit during the next business day.

Section 8. Fees for excavations. The fees for all street and sidewalk excavations shall be sixty ($60.00) dollars for the first fifteen (15) linear feet or part thereof of any excavation, and eight ($8.00) dollars for each additional five linear feet or part thereof. The length of the excavation shall include the total length of mains and laterals.

Section 9. Notice of construction. The public works director shall give ninety (90) days advance notice to all public utilities when a street or sidewalk is to be constructed, reconstructed, resurfaced or sealed. This notice will afford the utility companies an opportunity to complete any necessary work in such road or sidewalk prior to the paving work. For two (2) years thereafter any excavation associated with new mains

and/or conduits, including the maintenance of existing ones, will require pavement restoration from curb to curb for the entire length of the excavation.

For two years following the construction, reconstruction, resurfacing or sealing of a street, any excavator of a lateral trench shall restore the surface by removing and replacing in kind the existing pavement completely for a distance of ten feet on either side of the center line of the trench from curb to curb.

Section 10. Restoration of surface. Every person who applies for a permit to make an excavation in a sidewalk or street shall state the exact location of the proposed excavation and the dimensions thereof and shall also agree to restore the sidewalk or pavement as required by the director of public works.

Every person making application shall further agree that if, in the opinion of the director, the work or restoration is not in strict accordance with his requirements, the town may restore the same and charge to the person the cost thereof.

Thorough clean-up shall be accomplished at the end of each working day.

Section 11. Bond required. Every person making application for excavations shall be required to file in the office of the director of public works a performance bond in the sum of five thousand ($5,000.00) dollars conditioned upon the applicant's doing the work for which he has applied in a first class and

workmanlike manner and restoring the sidewalk, curb or pavement as prescribed by the director, and with the understanding that, if in the opinion of the director, the work or restoration is not in strict accordance with his requirements, the town may do the work or restore the sidewalk, curb or pavement and charge to such person the cost thereof.

Section 12. Liability insurance required. Before commencing excavation work covered by this ordinance, the person seeking a permit shall establish that he has in full force and effect a policy of comprehensive general liability insurance with a minimum coverage of five hundred thousand ($500,000.00) dollars combined single limit or a policy or policies of three hundred thousand ($300,000.00) dollars bodily injury limit/six hundred thousand ($600,000.00) dollars bodily injury limit/one hundred thousand ($100,000.00) dollars property damage limit to include broad form property damage and explosion/collapse/underground coverage and completed operations coverage. For sidewalk and street obstructions the applicant must provide proof of a comprehensive general liability policy with a minimum coverage of three hundred thousand ($300,000.00) dollars. All policies must list the town as an insured and indemnify the town for any liability it may incur as a result of issuing a permit under this ordinance.

Section 13. Responsibilities of excavators. Any person making any curb cut or excavation in a public way under this ordinance

shall furnish all labor, materials, tools and equipment necessary for protection of the excavation, traffic control, backfilling the excavation, placing a compacted gravel foundation, temporary pavement, and permanent pavement and shall perform all other work necessary to restore the condition of the way. Except in case of emergency, such person shall notify the director of public works at least twenty four (24) hours prior to doing any work under this ordinance. All material used shall be subject to the approval of the public works director.

All excavations shall be protected with public safeguards and adequate warning devices such as detour lights, barricades, lights, watchmen and danger and warning signs, to be provided and maintained by the permit holder. No open excavation shall be left unattended.

All material removed from the excavation shall be immediately removed from the site of the work and shall not be left on any public right of way. That portion of excavated material which is to be used for backfilling the excavation may be stored on the site only with the permission of, and in a manner approved by, the director of public works.

No construction materials or equipment shall be stored on any town property or public right of way without the written approval of the director of public works.

Placement of backfill, gravel foundation, temporary pavement and permanent pavement shall be in accordance with town standards

as determined by town regulations, or, in their absence, by the director of public works. Concrete used on roadways and concrete sidewalks shall be in accordance with the same standards.

Permanent pavement shall be deferred for a time period designated by the director of public works at the time of the placement of the temporary pavement. This time will depend on soil characteristics, the depth of the excavation and the nature of the excavation. When this time has expired, the department of public works shall notify in writing the permit holder to remove temporary pavement and replace it with permanent pavement, which shall be done within a period of ten (10) days.

Section 14. This ordinance shall take effect upon passage, and all other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 15: Penalty for violation. Any person who fails or refuses to comply with the requirements of this ordinance shall be punished by a fine of not more than one hundred ($100.00) dollars to be recovered to the use of the town, and each day any violation of this ordinance continues shall constitute a separate offense.

APPROVED
BY
TOWN COUNCIL ACTION
ON February 20, 1996

C. ZINNO
TOWN CLERK