

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
TEXT AMENDMENT CASE TA-21-06  
December 14, 2021**

<b>Request</b>	
<b>Applicant:</b> City of High Point Planning & Development Department	<b>Affected Ordinance Sections:</b> Section 9.7.6 Criminal Penalties and 9.9.5 Nonpayment
<b>Proposal:</b> Amend Chapter 9: Enforcement of the City of High Point Development Ordinance in accordance with S.L. 2021-138.	

**Background**

This proposed amendment responds to changes in State legislation that eliminate the use of criminal penalties for certain ordinance violations.

**Details of Proposal**

The proposed amendment affects Section 9.7.6., Criminal Penalties and Section 9.9.5., Nonpayment, related to criminal penalties for certain code violations. Sessions Law 2021-138 was ratified on September 2, 2021 and went into effect on December 1, 2021. This law eliminates the use of criminal penalties for code violations, other than for soil and erosion control. The proposed Development Ordinance amendments remove the use of criminal penalties where required to bring the City into compliance with the law changes.

**Analysis**

These amendments are required to comply with State Law.

**Consistency with Adopted Policy Guidance:**

**The proposed text amendments are appropriate and are consistent with the purposes, goals, objectives and policies of relevant comprehensive land use or area plans.**

**The proposed amendments are neither consistent nor inconsistent with the City's adopted policy guidance.**

**Reasonableness/Public Interest:**

**An approval of the proposed text amendments is considered reasonable and in the public interest.**

**The proposed amendments to the Development Ordinance address necessary changes to be in compliance with State legislation.**

## Recommendation

**Staff recommends approval.**

## Required Action

### **Planning and Zoning Commission:**

The NC General Statutes require that the Planning and Zoning Commission place in the official record a statement of consistency with the City's adopted plans when making its recommendation. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

### **City Council:**

The NC General Statutes require that the City Council also place in the official record a statement of consistency with the City's adopted plans, and explain why the action taken is considered to be reasonable and in the public interest when rendering its decision in this case. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

## Report Preparation

This report was prepared by Heidi Galanti, AICP, Planning Administrator.

### **Attachments:**

*Text Amendment 21-06 in ordinance form*

AN ORDINANCE AMENDING THE CITY OF HIGH POINT DEVELOPMENT ORDINANCE

**WHEREAS**, the City of High Point adopted the "City of High Point Development Ordinance" on May 16, 2016, with an effective date of January 1, 2017, and subsequently amended; and

**WHEREAS**, public hearings were held before the Planning and Zoning Commission on December 14, 2021 and before the City Council on January 4, 2022 regarding Text Amendment 21-06; and

**WHEREAS**, notice of the public hearings was published in the High Point Enterprise on December 5, 2021 for the Planning and Zoning Commission public hearing, and on December 15, 2021 and December 22, 2021 for the City Council public hearing pursuant to Chapter 160D-601 of the General Statutes of North Carolina.

**NOW THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA:

**SECTION 1.**

*(Regarding Civil Penalties as necessitated by S.L. 2021-138.)*

**PART A.**

That Section 9.7.6 Criminal Penalties, is hereby amended as follows:

Violation of Erosion and Sedimentation Control. Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, is guilty of a **Class 2 misdemeanor that may include a fine not to exceed \$5,000 in accordance with state law** ~~misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed \$5,000, or both.~~

**PART B.**

That Section 9.9.5 Nonpayment, is hereby amended as follows:

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to legal counsel to institute a civil action for recovery of the civil penalty. ~~Moreover, if the civil penalty is not paid within the time prescribed, any of the directors listed in Section 9.5.1, as appropriate, may have a criminal summons or warrant issued against the violator. Upon conviction, the~~

**TEXT AMENDMENT 21-06**

Ordinance #XXXX/XX-XX

Applicant: City of High Point

~~violator is subject to any criminal penalty the court may impose pursuant to Section 14-4 of the North Carolina General Statutes.~~

**SECTION 2.**

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION 3.**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.**

This ordinance shall become effective upon adoption.

Adopted by the City Council  
City of High Point, North Carolina  
The **18<sup>th</sup>** day of **JANUARY 2022**  
Lisa B. Vierling, City Clerk

By: \_\_\_\_\_

Jay W. Wagner, Mayor

ATTEST:

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Lisa B. Vierling, City Clerk