



April 15, 2011

Mr. Mel Nevils
1612 Mail Service Center
Raleigh NC 27699-1612



Dear Mr. Nevils,

Please find attached a recently adopted ordinance (2011-9) which amended the city's Soil Erosion and Sedimentation Control Ordinance to reflect the appeals process for civil penalties as well as the collection procedure remitting the penalties to the Civil Penalty and Forfeiture Fund.

This ordinance was previewed and approved by Gray Hauser prior to being adopted by our council and we assume that it is acceptable to the SCC.

It is my understanding that the SCC will meet on May the 19th, I hereby request that this be an item of consideration for the SCC seeking approval and acknowledgement thereafter so that we may begin to use this process in a pending penalty assessment.

Feel free to contact me if you have any questions or if I can be of further assistance.

Sincerely,

Glenn J. Pattishall, AICP, Plan. Dir./Asst. City Manager

ORDINANCE #2011-9

AN ORDINANCE AMENDING THE CITY CODE OF ORDINANCES FOR THE CITY OF
NEWTON, NORTH CAROLINA

BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH
CAROLINA, THAT:

Section 1.

Section 82-20 "Penalties" of Chapter 82 "Soil Erosion and Sedimentation Control" of the Newton City Code shall be amended by deleting Section 82-20(a)(2) in its entirety and inserting a new Section 82-20(a)(2) in lieu thereof, to read as follows:

(2) The City Council shall determine the amount of the civil penalty to be assessed under this subsection and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. In determining the amount of the penalty the Council shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this chapter. The notice of assessment shall be served by any means authorized under section 82-19, and shall direct the violator to either pay the assessment or contest the assessment, within 30 days after receipt of the notice of assessment, by filing written demand for a contested case in the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the NC General Statutes. A hearing on the amount of civil penalty shall be conducted by The Office of Administrative Hearings and it shall make its recommendation to the Council of the city. The City Council shall render its final decision on the civil penalty in accordance with Articles 3 and 4 of Chapter 150B of the NC General Statutes. Appeal from the final decision of the Council shall be to the Superior Court of Catawba County. Such appeals must be made within 30 days of the final decision of the City Council..

Section 2.

Section 82-20 "Penalties" of Chapter 82 "Soil Erosion and Sedimentation Control" the Newton City Code shall be amended by deleting Section 82-20(a)(4) in its entirety and inserting a new Section 82-20(a)(4) to read as follows:

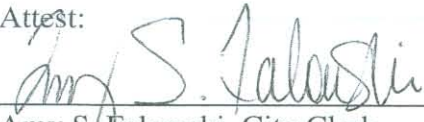
4) Civil penalties collected pursuant to this chapter shall be credited to the the Civil Penalty and Forfeiture Fund.

Section 3.

This ordinance shall become effective from and after the date of its adoption. Adopted this the 5th day of April, 2011



Robert A. Mullinax, Mayor

Attest:


Amy S. Falowski, City Clerk

