

Engineering Services Department

Trevor Spencer, PE

DIRECTOR



June 9, 2022

Owner/Financially Responsible Party

PTI of USA, LLC.
7 Westmont Court,
Greensboro, NC 27410

RE: **FIRST NOTICE OF CIVIL PENALTY ASSESSMENT**

Amount: \$1,300.00

Owner/Financially Responsible Party: PTI of USA, LLC.

For Violations of: Section 6.3 of the City of High Point Development Ordinance

Location: 3124 Triangle Lake Rd., High Point, NC

Land Disturbing Permit: EN-21-0226

Dear Sir or Madame:

This letter is to notify you that a civil penalty has been assessed by the City of High Point (the "City") against PTI of USA, LLC. in the amount of One Thousand Three Hundred Dollars and Zero Cents (\$1,300.00) for continuing violations of Section 6.3 of the City's Development Ordinance (DO) occurring at the 3124 Triangle Lake Rd., High Point, North Carolina (the "Site"). On September 1, 2021, PTI of USA, LLC. was designated as the "Financially Responsible Person" (FRP) pursuant to the Approval of an Erosion and Sedimentation Control Plan. Therefore, PTI of USA, LLC. (FRP) is responsible for this civil penalty pursuant to Section 9.9.1. of the DO.

During an inspection conducted at the Site on April 21, 2022, the City determined that a land-disturbing activity had occurred in violation of Section 6.3 of the Development Ordinance. Specifically, sedimentation damage was occurring at the Site.

On April 25, 2022, the City sent a Notice of Violation (NOV) for violations of the DO to the FRP by certified mail, return receipt requested, which was received by the FRP on April 27, 2022. The FRP did not appeal the NOV within the time allowed under Sec. 9.6.1. and 2.4.3. of the DO. Therefore, the determination in the NOV that violations of the DO are occurring at the Site is final and not subject to further appeal. A copy of the NOV is enclosed and incorporated herein by reference.

The NOV required that the corrective measures stated therein be completed within 15 working days of receipt of the Notice. The City conducted a follow-up Site inspection on May 19, 2022, and May 31, 2022, and confirmed that the Site was still in violation for reasons previously cited in the NOV.

Therefore, in accordance with Section 9.9.6 of the DO and N.C.G.S. § 113A-64, I hereby assess a civil penalty against the FRP in the amount of \$1,300.00 for the violations occurring on April 24, 2022.

In determining the amount of this civil penalty, I considered the criteria in Section 9.9.6 of the DO and N.C.G.S. § 113A-64(3) and concluded that the following violations occurred at the Site:

- Section 9.9.6.(B)(2)- Failure to Protect: \$500 per day for failure to take all reasonable measures to protect public property or private property, including lakes and/or/ natural watercourses, from damage caused by land-disturbing activities.
- Section 9.9.6.(B)(3) - Failure to Follow Plan: \$300 per day for failure to conduct a land-disturbing activity in accordance with the provisions of an approved soil erosion and sedimentation control plan.
- Section 9.9.6.(B)(4) – Failure to Install Devices: \$500 per day for failure, when more than one acre is disturbed, to install erosion and sedimentation control devices sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract(s) and prevent off-site sedimentation.

Please be aware that each day the violation is not corrected, the FRP will be guilty of an additional and separate offense and subject to additional civil penalties pursuant to Section 9.9.3. of the DO until compliance is achieved. Should the FRP abate the continuing sedimentation damage resulting from these violations within 180 days of the date of the NOV (i.e., by no later than November 24, 2022), then the maximum cumulative civil penalty assessed against the FRP for these violations will not exceed \$25,000.00.

A request for remission of this civil penalty may be filed with the N.C. Sedimentation Control Commission within 30 days of receipt of this notice in accordance with N.C.G.S. § 113A-64.2. A remission request must be accompanied by a signed copy of the enclosed Waiver of Right to an Administrative Hearing and Stipulation of the Facts.

PAYMENT

Payment is due within 30 days of receipt of this notice, and payable at the Engineering Services Department, located in Room 210 of City Hall at 211 South Hamilton Street, High Point, NC 27260 between the hours of 8:00am and 5:00pm, Monday through Friday. Payment can also be mailed to the Engineering Services Department at PO Box 230, High Point, NC 27261. If payment is not received, the matter may be referred to legal counsel to institute a civil action for recovery of the civil penalty. Payment of this penalty will not foreclose further enforcement action against the FRP for any new violation. If the violations which resulted in this penalty assessment are continuing in nature, the City reserves the right to assess additional civil penalties in the future or take other enforcement action against the FRP.

A copy of this First Notice of Civil Penalty Assessment will be forwarded to the Winston Salem Regional Office of the NC Division of Energy, Mineral and Land Resources and the NC Division of Water Quality as required.

You may view the City of High Point's Development Ordinance at the following link - https://library.municode.com/nc/high_point/codes/development_ordinance?nodeId=CITY_HIGH_POINT_DEVELOPMENT_ORDINANCE. Copies of the relevant ordinance and regulations will be sent to you

upon request.

Please notify my office immediately after the violations have been corrected so that a compliance inspection can be performed.

If you have any questions, please contact me at 336-883-8583 or trevor.spencer@highpointnc.gov.

Respectfully,



Trevor Spencer, PE
Engineering Services Director
City of High Point

cc: JoAnne Carlyle, City Attorney, City of High Point (via email)
Meghan Maguire, Assistant City Attorney, City of High Point (via email)
Tamera Eplin, PE, NCDEQ-DEMLR (via email)
Kim Turney, NCDEQ-DEMLR (via email)
Julie Coco, PE, NCDEQ-DEMLR (via email)
Graham Parrish, EI, NCDEQ-DEMLR (via email)
Sue Homewood, NCDEQ-DWR (via email)

**WAIVER OF RIGHT TO AN ADMINISTRATIVE HEARING
AND STIPULATION OF FACTS**

Financially Responsible Party

PTI of USA, LLC.
7 Westmont Court,
Greensboro, NC 27410

RE: REMISSION REQUEST OF CONTINUING NOTICE OF VIOLATION - CIVIL PENALTY ASSESSMENT

For Violations of: Section 6.3 of the City of High Point Development Ordinance

Project: Triangle Lake Rd. Commercial Site

Location: 3124 Triangle Lake Rd., High Point, NC

Land Disturbing Permit: EN-21-0226

Amount Assessed: \$1,300.00

Having been assessed civil penalties totaling \$1,300.00 for violation(s) as set forth in the First Notice of Civil Penalty Assessment of the Engineering Services Director for the City of High Point Dated June 9, 2022, the undersigned, desiring to seek remission of the civil penalties, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the First Notice of Civil Penalty Assessment.

The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the N.C. Sedimentation Control Commission within thirty (30) calendar days of receipt of the First Notice of Civil Penalty Assessment. No new evidence in support of a remission request will be allowed after thirty (30) calendar days from the receipt of the First Notice of Civil Penalty Assessment.

This the ____ day of _____, 20____.

NAME (printed)

SIGNATURE

ADDRESS:

TELEPHONE: _____

JUSTIFICATION OF REMISSION REQUEST

Financially Responsible Party

PTI of USA, LLC.
7 Westmont Court,
Greensboro, NC 27410

RE: REMISSION REQUEST OF CONTINUING NOTICE OF VIOLATION - CIVIL PENALTY ASSESSMENT

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Land Disturbing Permit: EN-21-0226

Amount Assessed: \$1,300.00

Please use this form when requesting remission of this civil penalty. You must also complete the "Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the City of High Point to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the factors listed below. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 113A-64.2(b), the following factors shall be considered in determining whether a civil penalty remission request will be approved. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- (a) one or more of the civil penalty assessment factors in Section 9.9.6 of the Development ordinance were wrongfully applied to the detriment of the petitioner (please refer to the "Assessment Factors" summary attached).
- (b) the violator promptly abated continuing environmental damage resulting from the violation (i.e., explain the steps that you took to correct the violation and prevent future occurrences).
- (c) the violation was inadvertent or a result of an accident (i.e., explain why the violation was unavoidable or something you could not prevent or prepare for).
- (d) the violator had not been assessed civil penalties for any previous violations.
- (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions or would otherwise create a significant financial hardship (i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance).

- (f) the assessed property tax valuation of the violator's property upon which the violation occurred, excluding the value of any structures located on the property.

Please note that you have the burden of providing information concerning the financial impact of a civil penalty and the burden of showing any financial hardship.

EXPLANATION (attach additional pages as necessary):