

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: April 3, 2023

SUBJECT: Chronic nuisance property

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Notices of violation (November 14, 2022; January 31, 2023; March 7, 2023)
Letters sent to property owner (1 per violation)
GIS map of property
GIS oblique aerial view
Photos of the property

SUMMARY OF REQUEST:

Your Code Enforcement and Zoning Services Department has cited a particular parcel of property three times within the past year for violation of your nuisance ordinance, Chapter 52 of the Henderson County Code. The property is shown on your geographical information system as PIN 9538-62-2468, with owner shown as "Laughter, Fred", with a Transylvania County (albeit "Horse Shoe, NC") address. A copy of each of the notices of violation is attached.

Under N.C.G.S. §153A-140.2,

A county may notify a chronic violator of the county's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the county shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the county gave notice of violation at least three times under any provision of the public nuisance ordinance.

This matter would, in the worst case, come back before the Board before a contractor was hired to clear up the property under the authority noted, above.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Give notice to property owners under N.C.G.S. §153A-140.2.

Henderson County Board of Commissioners
Request for Board Action from
Office of the County Attorney

If the Board is so inclined, the following motion is suggested:

I move that the Board give the owners of the property which is the subject of this agenda item the notice provided for under N.C.G.S. §153A-140.2.

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON
Notice of Violation and Declaration of Public Nuisance

Name of Violator / Property Owner: Fred Lougher or Hines
Street Address: 0 River Rd
PIN Number: 9538-62-2468

On or about the 31st day of January, 2023, in the County of Henderson a violation of Henderson County Nuisance Ordinance Section 52 did occur by:

- §52-3 A. Improper sewage disposal to such degree that sewage or effluent is discharging onto the surface of the ground, backing up into a structure, or discharging into a body of water.
- §52-3 B. An unsecured opening caused by improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, mine shaft or tunnel.
- §52-3 C. Failure to keep waste, refuse or garbage in an enclosed building or properly contained in a closed, insect and rodent-proof container.
- §52-3 D. Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of in a sanitary manner within 24 hours after death.
- §52-3 E. Significant outdoor storage of solid waste.
- §52-3 F. Accumulations of rubbish or junk as to become dangerous or injurious to the health and safety of any individual or to the public.
- §52-3 G. Any junked motor vehicles without a current Vehicle Restoration Permit and/or any abandoned manufactured home.
- §52-3 H. Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae, hookworm larvae or other insects, parasites or vermin.
- §52-3 I. Breeding grounds which support mosquito larvae and mosquitoes.
- §52-3 J. Use of a Recreational Vehicle as a primary residence without permitted electric, water and sewage connections.
- §52-3 K. Recreational vehicles used to store solid waste.
- §52-4 A. Improper outdoor storage location violation for zoning purposes.
- Other Zoning Violation (Section 42): Must have special use permit for RV and Tent
- Solid Waste Violation (Section 95):

Furthermore, the property mentioned above is hereby declared a Public Nuisance by Henderson County Code Enforcement Services and will remain so until the specific problem(s) is/are abated and approved by Code Enforcement Services at which time the Declaration of Public Nuisance will be dismissed. It is your responsibility to abate the existing problem on the property.

You have 30 days, ending on 3 / 3 / 23, to abate the current nuisance. Failure to legally abate the nuisance could result in a warrant being issued against you. Each day that the violation exists past the allotted time period shall constitute a separate violation. Per Section 1-14 of the Henderson County Code and NCGS 14-4, violation of the Code shall constitute a Class 3 misdemeanor for criminal violation and/or \$50 per day per violation for civil violation.

As the owner, occupant or person in control of the property mentioned it is your responsibility to bring the property into compliance with Henderson County ordinances. You are hereby ordered to bring the property into compliance by remedying the nuisance in a legal manner and notifying the Henderson County Code Enforcement Department once completed. If the property is not abated or remedied in accordance with this order, Henderson County will have the nuisance abated or removed at the expense of the owner under the provisions of North Carolina Statute 153A-140.2 and this ordinance.

Right to appeal: As the owner or occupant of the property, you may appeal this Declaration by filing a written request with the Zoning Board of Adjustment for an administrative hearing within ten calendar days of receiving this notice. Correspondence may be made by mail to 100 N King St. Hendersonville, NC 28792.

Please contact Officer: Matt Chapman as soon as possible at 888-694-6555.

Owner Signature _____ Phone Number _____
Matt Chapman 1/21/23 2871
Zoning Enforcement Officer Date ID#

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON
Notice of Violation and Declaration of Public Nuisance

Name of Violator / Property Owner: Fed Length or Hwy
Street Address: O River Rd
PIN Number: 9528-62-2968

On or about the 3rd day of March, 2023, in the County of Henderson a violation of Henderson County Nuisance Ordinance Section 52 did occur by:

- §52-3 A. Improper sewage disposal to such degree that sewage or effluent is discharging onto the surface of the ground, backing up into a structure, or discharging into a body of water.
- §52-3 B. An unsecured opening caused by improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, mine shaft or tunnel.
- §52-3 C. Failure to keep waste, refuse or garbage in an enclosed building or properly contained in a closed, insect and rodent-proof container.
- §52-3 D. Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of in a sanitary manner within 24 hours after death.
- §52-3 E. Significant outdoor storage of solid waste.
- §52-3 F. Accumulations of rubbish or junk as to become dangerous or injurious to the health and safety of any individual or to the public.
- §52-3 G. Any junked motor vehicles without a current Vehicle Restoration Permit and/or any abandoned manufactured home.
- §52-3 H. Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae, hookworm larvae or other insects, parasites or vermin.
- §52-3 I. Breeding grounds which support mosquito larvae and mosquitoes.
- §52-3 J. Use of a Recreational Vehicle as a primary residence without permitted electric, water and sewage connections.
- §52-3 K. Recreational vehicles used to store solid waste.
- §52-4 A. Improper outdoor storage location violation for zoning purposes.
- Other Zoning Violation (Section 42): Not SUP P. RV and Tent
- Solid Waste Violation (Section 95): _____

Furthermore, the property mentioned above is hereby declared a Public Nuisance by Henderson County Code Enforcement Services and will remain so until the specific problem(s) is/are abated and approved by Code Enforcement Services at which time the Declaration of Public Nuisance will be dismissed. It is your responsibility to abate the existing problem on the property.

You have 15 days, ending on 3/18/23, to abate the current nuisance. Failure to legally abate the nuisance could result in a warrant being issued against you. Each day that the violation exists past the allotted time period shall constitute a separate violation. Per Section 1-14 of the Henderson County Code and NCGS 14-4, violation of the Code shall constitute a Class 3 misdemeanor for criminal violation and/or \$50 per day per violation for civil violation.

As the owner, occupant or person in control of the property mentioned it is your responsibility to bring the property into compliance with Henderson County ordinances. You are hereby ordered to bring the property into compliance by remedying the nuisance in a legal manner and notifying the Henderson County Code Enforcement Department once completed. If the property is not abated or remedied in accordance with this order, Henderson County will have the nuisance abated or removed at the expense of the owner under the provisions of North Carolina Statute 153A-140.2 and this ordinance.

Right to appeal: As the owner or occupant of the property, you may appeal this Declaration by filing a written request with the Zoning Board of Adjustment for an administrative hearing within ten calendar days of receiving this notice. Correspondence may be made by mail to 100 N King St. Hendersonville, NC 28792.

Please contact Officer: M.H. Champion as soon as possible at 928-694-6555.

Owner Signature _____

Phone Number _____

M.H. Chy
Zoning Enforcement Officer

3/3/23
Date

2871
ID#



Henderson County, North Carolina Code Enforcement Services

October 14, 2022

Fred Laughter or Heirs
523 Turkey Pen Gap Rd
Horse Shoe, NC 28742

RE: Violations at River Road, PIN: 9538-62-2468

Dear Mr. Laughter,

I have made a recent site visit to your property on River Road in response to more citizen complaints. I observed an individual living in an unpermitted Recreational Vehicle and a substantial amount of outdoor storage of solid waste. These are violation of the Henderson County Code of Ordinances. I am serving you with a 30-day Notice of Compliance on that property since you are the lawful property owner.

Section 42 of the Henderson County Code requires a special use permit to reside in an RV as an approved RV Park. Section 52 of the Henderson County Code requires solid waste to be in an enclosed building or properly contained in a closed, insect and rodent proof container. A **\$50** per day fine has been accruing since the property was found to be in violation since April 27, 2021. The fine is currently **\$26,750**. Failure to abate these violations by **November 14, 2022**, will result in a warrant being issued against you for criminal and/or civil charges.

This matter should be relatively easy to resolve. Please contact me at (828) 694-6555 to discuss this issue and avoid further prosecution.

Respectfully,

Matt Champion

Matt Champion, MPA CZO
Code Services Director



Henderson County, North Carolina Code Enforcement Services

January 31, 2023

Fred Laughter or Heirs
523 Turkey Pen Gap Rd
Horse Shoe, NC 28742

RE: 2nd Notice of Violations at River Road, PIN: 9538-62-2468

Dear Mr. Laughter,

I have made a recent site visit to your property on River Road in response to more citizen complaints. I observed an individual living in an unpermitted Recreational Vehicle, someone living within a tent, and a substantial amount of outdoor storage of solid waste. These are violation of the Henderson County Code of Ordinances. I am serving you with second 30-day Notice of Compliance on that property since you are the lawful property owner.

Section 42 of the Henderson County Code requires a special use permit to reside in an RV as an approved RV Park. Section 52 of the Henderson County Code requires solid waste to be in an enclosed building or properly contained in a closed, insect and rodent proof container. A **\$50** per day fine has been accruing since the property was found to be in violation since April 27, 2021. The total fine is currently **\$32,200**. Failure to abate these violations by **March 3, 2023**, will result in a warrant being issued against you for criminal and/or civil charges.

This matter should be relatively easy to resolve. Please contact me at (828) 694-6555 to discuss this issue and avoid further prosecution.

Respectfully,

Matt Champion

Matt Champion, MPA CZO
Code Services Director

Matt Champion
Code Services Director
100 N King St, Hendersonville, North Carolina 28792
(828) 694-6555



Henderson County, North Carolina Code Enforcement Services

March 3, 2023

Fred Laughter or Heirs
523 Turkey Pen Gap Rd
Horse Shoe, NC 28742

Final Notice of Violation Declaration of Public Nuisance

RE: Violations at 0 River Rd, PIN: 9538-62-2468

You have already been served with a Notice of Violation and Declaration of Public Nuisance, Henderson County Ordinance, Section 52. This notice gave you 30 days to abate the nuisance at 0 River Rd and was issued on October 14, 2022, and again on January 31, 2023. You have been given ample time to comply with the order. Failure to abate the nuisance will result in civil penalties. Each day that the violation exists past the allotted time constitutes a separate violation of fifty dollars per day. Fines have accrued to \$33,700. Failure to abate the nuisance will also result in criminal warrant being issued.

Notification of Violation Expired: 3/3/23 Abate the following violations by 3/18/23

Section 52 Prohibitions. The creation or maintenance of a public nuisance is prohibited. The following are hereby expressly declared to be public nuisances:

- C: Failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed, insect and rodent proof container designed or reasonably adapted for such purpose.
- E. Significant Outdoor Storage of Solid Waste

Remove all solid waste from property.

Section 42 Prohibitions. Henderson County Code requires a special use permit to reside in an RV as an approved RV Park. There is no special use permit on file for this property.

Remove the RV and tent from the property.

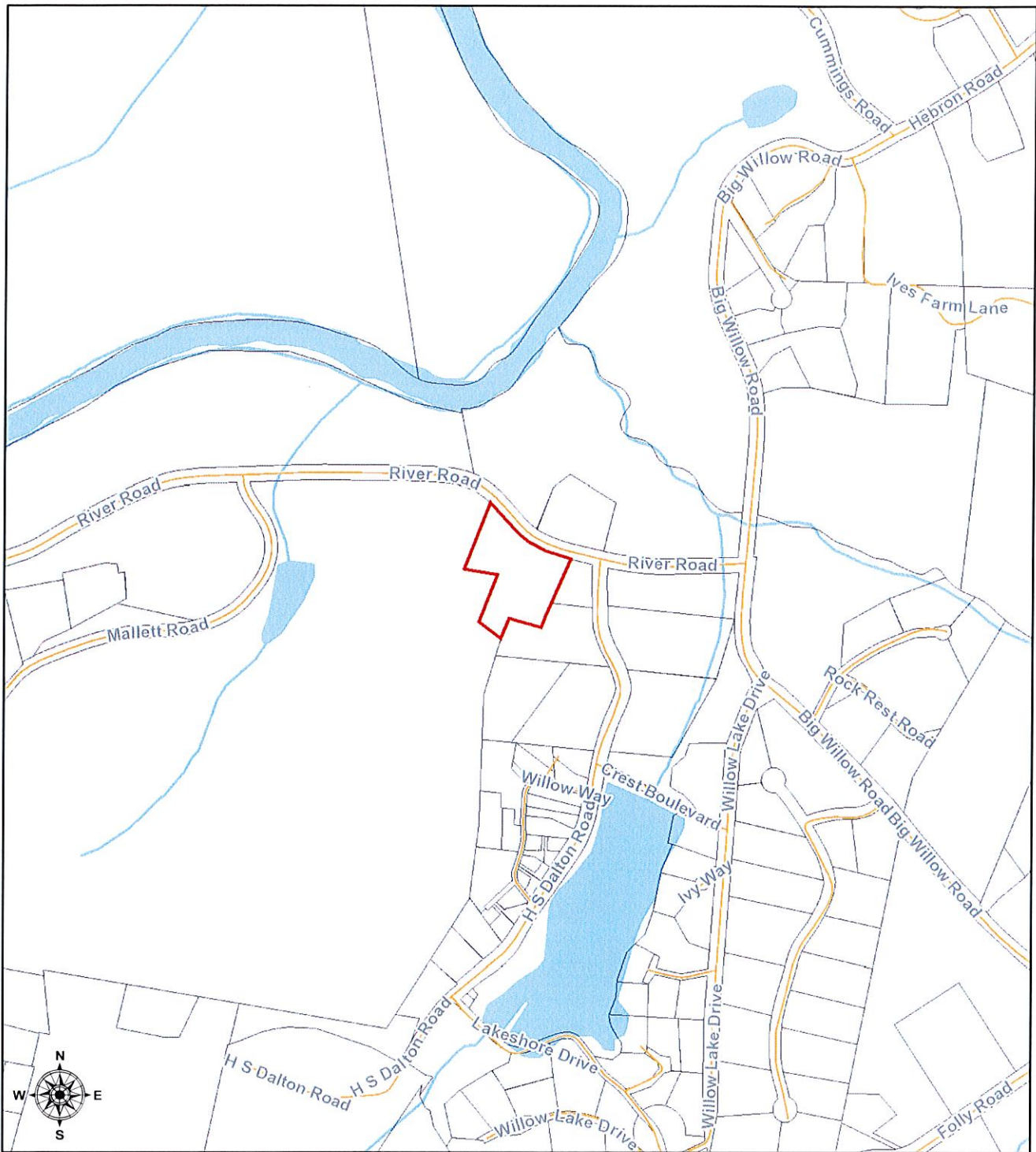
Respectfully,

Matt Champion

Matt Champion, MPA CZO
Code Services Director

Matt Champion
Code Services Director
100 N King St, Hendersonville, North Carolina 28792
(828) 694-6555

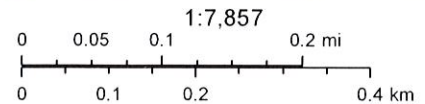
Laughter property (PIN 9538622468)



March 22, 2023

THIS IS NOT A SURVEY.

All information or data provided, whether subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk. Henderson County makes no warranties or guarantees, including the warranties of merchantability or of fitness for a particular purpose. Map data is not appropriate for, and is not to be used as, a geodetic, legal, or engineering base system. The data is not intended as a substitute for surveyed locations such as can be determined by a registered Public Land Surveyor, and does not meet the minimum accuracy standards of a Land Information System/Geographic Information System Survey in North Carolina (21 NCAC 56.1608).



Laughter (PIN 9538622468) oblique



© All EagleView Technology Corporation

02/07/2023









