#### REQUEST FOR BOARD ACTION

#### HENDERSON COUNTY BOARD

#### **OF COMMISSIONERS**

**MEETING DATE:** September 17, 2025

**SUBJECT:** Chronic nuisance property – 264 Misty Mountain Drive

**PRESENTER:** Charles Russell Burrell

**ATTACHMENT(S):** Notices of violation (October 23, 2024, May 14, 2025; and,

July 23, 2025)

Letters sent to property owner (1 per violation) Photos of

the property

GIS oblique view of 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 9528786300, with owner shown as "Joan Kilpatrick". 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:**

The Board is requested to give notice to property owners under N.C.G.S. §153A-140.2.

Suggested Motion:

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



## Henderson County, North Carolina Code Enforcement Services

October 23, 2024

Joan Kilpatrick 1721 Francis Marion Road Florence, SC 29506

RE: Violations at 264 Misty Mountain Drive, PIN: 9528786300

Dear Ms. Kilpatrick,

I have made a site visit to your property at 264 Misty Mountain Dr in response to citizen complaints. I observed large piles of household waste and debris scattered throughout your property. I also observed multiple vehicles without a current tag. These are violations 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 owners.

Section 52 of the Henderson County Code prohibits the failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed container. This code also prohibits accumulations of solid waste. Both pose a serious health and safety risk to the community. There are also multiple vehicles without a current tag, which is a violation of Section 52 in the Henderson County Code. Your Notice of Violation provides a 30-day compliance period running through **November 23, 2024**. A \$50 per day fine is accruing since the property was found to be in violation. Failure to abate these violations by **November 23, 2024**, 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,

#### Penny Sams

Penny Sams CZO Lead Code Enforcement Officer

**ENC:** Copy of NOV

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

S52-3 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 E. 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 E. 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 E. All 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):  Solid Waste Violation (Section 95):	ree	e of Violator / Property Owner:  Address: 260 M. St. Mounter 201  Number: 9528786300
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responsibility to abate the existing problem on the property.

You have days, ending on 1/23/24, 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: Photo Sams	as soon as possible at <u>694-6517</u> .
Owner Signature  Zoning Enforcement Officer	Phone Number  1023-24 3071  Date ID#



## Henderson County, North Carolina Code Enforcement Services

May 14, 2025

Joan Kilpatrick 1721 Francis Marion Road Florence, SC 29506

RE: 2<sup>nd</sup> Notice of Violations at 264 Misty Mountain Drive, PIN: 9528786300

Dear Ms. Kilpatrick,

I have made a second site visit to your property at 264 Misty Mountain Dr in response to more citizen complaints. I still observed large piles of household waste and debris scattered throughout your property. I also observed multiple vehicles without a current tag. These are violations 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 owners.

Section 52 of the Henderson County Code prohibits the failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed container. This code also prohibits accumulations of solid waste. Both pose a serious health and safety risk to the community. There are also multiple vehicles without a current tag, which is a violation of Section 52 in the Henderson County Code. Your Notice of Violation provides a 30-day compliance period running through <u>June 14, 2025</u>. A \$50 per day fine has been accruing since the property was found to be in violation. Failure to abate these violations by <u>June 14, 2025</u>, 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,

#### Penny Sams

Penny Sams CZO Lead Code Enforcement Officer

**ENC:** Copy of NOV

Building Value Land Value: Value To Be Billed: North Carolina Senate Di

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

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Name of	of Violator / Property Owner: John Kil Do Helic I Address: 364 Mistignation of Many 1997 Address: 364 Mistignation of Henderson a about the May of May 1997 Address on of Henderson County Nuisance Ordinance Section 52 did occur by:
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§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):

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 14/35, 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.

Enny Sams as soon as possible at 694-691.7 Please contact Officer: Phone Number Owner Signature

Zoning Enforcement Officer



## Henderson County, North Carolina Code Enforcement Services

July 23, 2025

Joan Kilpatrick 1721 Francis Marion Road Florence, SC 29506

#### FINAL NOTICE OF VIOLATION DECLARATION OF PUBLIC NUISANCE

RE: Violations at 264 Misty Mountain Drive, PIN: 9528786300

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 264 Misty Mountain Drive and was issued October 23, 2024. A second Notice of Violation was issued on May 14, 2025, and you were given another 30 days to abate the nuisance violations. 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 constitutes a separate violation of fifty dollars per day. Fines have accrued at \$9,000. Failure to abate the nuisance will also result in criminal warrant being issued.

#### **Notification of Violation Expired: 05/14/25**

**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
- F. Accumulations of rubbish or junk as to become dangerous or injurious to the health and safety of any individual or to the public.
- G. Any junked motor vehicle without a current registration.

#### Removal all solid waste from property and vehicles without a current registration.

Please call as soon as possible to meet on property.

Respectfully,

Penny Sams

Penny Sams CZO
Lead Code Enforcement Officer

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

Town Wil DAHRICK
Name of Violator / Property Owner: John Kill DA Hours of Henderson a
Street Address: 264 Mys 19 1000
PIN Number: 9528784300
2025 in the County of Henderson a
On or about the day of Die day of
On or about the 23 day of Olly 2025 in the County of Henderson a violation of Henderson County Nuisance Ordinance Section 52 did occur by:
violation of Henderson County Nuisance Ordinance Section  of Henderson County Nuisance Section  of Henderson County Nuisan
ground, backing up into a structure, or discharging into a body of water.
2 SET 2 D An improvided opening caused by improperty
umised or non-maintained swimming pool, mine shaft of townell.
umused or non-maintained swimming pool, mine shaft or tonner.  S52-3 C. Failure to keep waste, refuse or garbage in an enclosed building or properly contained in a closed,
insect and rodent-proof container.
Accumulation of carcasses of animals, birds, or using
senitary manner within 24 hours after death.
552-3 E. Significant outdoor storage of solid waste.
\$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.
individual or to the public.  §52-3 G. Any junked motor vehicles without a current Vehicle Restoration Permit and/or any abandoned
manufactured home
manufactured home.  S52-3 H. Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae, hookworm larvae or other insects,
O §52-3 H. Intestations of files, fleas, cockidactics, fice, rus,
parasites or vermin.
O §52-3 I. Breeding grounds which support mosquito larvae and mosquitoes.
§52-3 I. Breeding grounds which support mosquito fai vae and sewage §52-3 J. Use of a Recreational Vehicle as a primary residence without permitted electric, water and sewage
connections.
S52-3 K. Recreational vehicles used to store solid waste.
§52-4 A. Improper outdoor storage location violation for zoning purposes.
Tr. 1 2' (C-2'- 12).
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 days, ending on \$\frac{23}{25}\$, 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 Off	icer: Penny Sams	as soon as possible at 694-651-
Owner Signature	Am.s	7-22 25 302 1
	Zoning Enforcement Officer	Date 1D#

### **264 Misty Mountain Dr View from South**











