

**10/10/24**  
**Report to the residents of Ela campground**

This is a report from the management of Ela campground about the plan going forward for the restoration of the campground.

Management's responsibility is, first and foremost, the safe reconstruction of the campground. There are three major systems to be restored:

**Electrical system**

- 1) The electrical system has to be inspected and repaired before the power can be turned back on.

Immediately after the storm, an electrical consultant inspected the system and reported that floodwater had covered all the electrical connections for several hours. He requested an immediate public-safety disconnect from Duke Energy to prevent immediate hazard to the users.

Before the electrical system can be reenergized, a more comprehensive site by site examination of all of the controls, wiring, and fixtures will have to be completed. This is going to take some time, but the management is committed to getting it done.

**Water system**

- 2) The water system (wells, piping and electrical connections) has to be reconstructed, sanitized and tested. The control mechanisms for the pumps are a total loss because the floodwaters over washed the entire system for several hours. An examination by the contractor who installed the new water system earlier this year indicates that the main water line is sound, but that many of the frost-free hydrants have been damaged and will have to be replaced.
- 3) The contractor also suspected the well was contaminated by flood water and would need to be pumped completely and allowed to be refilled with clean water. The well pumps cannot be reenergized until the electrical connections and controllers have been tested and repaired. The system will need to be repaired, and pressure tested to provide clean, safe water to the property.

**Septic system**

- 4) The septic systems (there are about 14 separate septic tanks/drain-line systems) were over washed with floodwater for several hours. In ordinary circumstances those septic fields should be functional by the time the water is restored, so long as silt did not enter the tanks/drain lines, but that will have to be tested before safety can be assured. The civil engineer will have to evaluate all the park's septic

systems to make sure that the tanks and fields are not being overloaded by the number of their connections.

The inspection, repair and restoration of these systems are the top priority of the management, and you will be seeing in the days ahead a number of people working in the park on these projects.

### **Unpermitted Structures**

The management received a notice this week from the Building Inspections Department of Swain County, concerning the presence of site-built permanent or semi-permanent structures in the park. These are not owned by the park but were constructed by the residents (or prior residents).

Management is engaging a surveyor now to establish how high the base flood elevation is on the property. Site-built structures violate Swain County Floodplain Ordinances per the letter sent by the county inspectors. These structures must be removed to meet code.

### **Federal Emergency Management Agency (FEMA)**

FEMA will be starting assessments, hopefully within the next week. We want to make sure that everyone has signed up through [www.disasterassistance.gov](http://www.disasterassistance.gov) for any emergency needs. A representative from FEMA will also be here meeting with everyone to discuss damages and moving forward with all FEMA related support services.

### **Timeline**

Please communicate with campground management as it relates to needs regarding FEMA inspections of and finding an alternative location for your personal property. We can accommodate up to an additional 30 days. If there are any other concerns you have, please contact campground management.

We recommend that you follow the park's progress on [www.elacampground.com](http://www.elacampground.com).

**10/9/24**  
**Report from Ela Campground**

The management of the Ela Campground has this report for the public.

The campground and its residents suffered a devastating blow from the floodwaters of Hurricane Helene.

During the storm itself, power was lost but was restored fairly promptly by Duke Energy. Immediately after the waters receded, the campground management engaged a consultant to evaluate the status of the electrical system, which had been inundated by as much as 3 feet of running water. That consultant made an immediate public-safety disconnect request to Duke Power to prevent hazard to the residents of the park.

The water wells, water system, septic tanks, and septic drain lines were likewise covered in running river water for hours. The degree to which silt entered the septic systems is not entirely known but will impact the reconstruction timeline.

The management of the campground is engaging a civil engineer to evaluate the electrical system, well/water system and the septic systems. Based on those reports management will be working to repair or reconstruct all of the damaged facilities. The timetable for that work will depend on the availability of contractors and how much the systems have to be either repaired or entirely reconstructed. A report today from the contractor who installed the water system earlier this year (it was completely replaced in April) indicates that 100% of the well controls are damaged or missing, and that many frost-free hydrants will have to be repaired or replaced.

After the storm, an inspection by the Building Inspection Department of Swain County of all the riverside campgrounds in Swain County resulted in a letter from that department this week. They highlighted that there are unpermitted structures that have been placed on the site by the residents (or prior residents). Management is engaging a surveyor to determine the “base flood elevation,” which is a calculated value. All structures that are in the “floodway” (right next to the river) will have to be removed entirely by their owners. Additionally, unpermitted structures in the “floodplain” will have to be removed by their owners.

The management of Ela campground is committed to restoring the function of the campground facilities as soon as they can be made safe and compliant with the county’s floodplain ordinance. While there is no timetable presently, management will continue to communicate directly with the residents as it gets more information. The management has made a separate report today to the residents.

# Frank G. Queen, Attorney

154 N. Main Street, Ste 2  
Waynesville NC 28786

(828) 452-3336

Fax: (828) 707-9454

[frank@queenmountainlaw.com](mailto:frank@queenmountainlaw.com)

9 October 2024

Sam Owle  
Kituwah, LLC



Dear Sam:

At your request I have reviewed the North Carolina law applicable to the situation at Ela Campground. This memorandum summarizes my research.

## **Background**

Ela Campground at Bryson City is a 12-acre tract that was developed into a campground/RV park/motel before Kituwah bought it in 2019. The motel has since been demolished and the site slightly revised.

The campground is on the northeast side of the Tuckasegee River which flows from south-to-north at that point.

The site is served by Duke Energy for electricity. It has two drilled water wells for the residents. It has about 14 separate on-site septic tank/drainfields serving various campsites or buildings.

There are more than 100 campsites. The sites range from unoccupied concrete parking spots to camper/trailers connected by hoses and cable, to park-model RVs that have permanent utility connections, to older travel trailers that have attached/overhead roof-storage connections.

As I understand it, the landlord, Ela Campground, does not own any of vertical elements on any of the campsites except the utility pedestals at each site. In other words, the tenants own the camper/trailers, park-model RVs, older travel trailers and all of the site-built attachments at each campsite. Whether each tenant brought those units to the campground themselves or bought the units from some prior resident I do not know, but I believe that Ela Campground does not own and does not rent any of the vertical vehicles or structures.

While it is difficult to tell from examining the photographs that I have of each campsite, it appears that the only “manufactured home” (as defined by NC law) on the site is a

double wide mobile home and perhaps a couple of small mobile homes that have extensive roof/deck/storage around them.

The status of Ela Campground's relationship to the vertical elements on the campsites is important because it determines what law applies to the residents. If Ela Campground is renting only the parking spot and not the structure, then landlord-tenant law does not apply (Chapter 42 of the North Carolina General Statutes) and the applicable law is Chapter 72 (Hotels, Motels, Tourist Camps). Here is a detailed comparison of the differences between those Chapters.

Rental agreements: As far as I have seen it, there are no actual leases for any of the sites. Instead, the residents have signed 1) an acknowledgement that they are renting on a month-to-month basis and 2) an acknowledgment of the Rules and Regulations of the park. The first form explicitly authorizes Ela Campground to terminate the residency of any resident for the good of the campground.

## **Comparison of Landlord/Tenant to Transient Accommodation Chapters**

### **Chapter 42: Landlord and Tenant**

#### **Overview:**

Chapter 42 ("Landlord and Tenant") of the North Carolina General Statutes governs residential rental agreements and the relationship between landlords and tenants. This chapter includes sections that address leases, tenant rights, eviction procedures, and landlord obligations.

#### **Key Applicable Sections:**

- **“N.C. Gen. Stat. § 42-14.6. Transient occupancies excluded.** The provisions of this Chapter shall not apply to transient occupancies, as defined in G.S. 72-1(c). An agreement related to a transient occupancy shall not be deemed to create a tenancy or a residential tenancy unless expressly provided in the agreement.”
- **N.C. Gen. Stat. § 42-14:** Governs notice requirements for the termination of a tenancy, specifying that for month-to-month leases, at least a seven-day notice is required.
- **N.C. Gen. Stat. § 42-26:** Details the summary ejection process, which landlords must follow to legally evict tenants. Grounds for eviction can include non-payment of rent, lease violations, or other specified causes.

#### **Termination of Tenancy Under Chapter 42:**

- **Notice Requirements:** As stated in § 42-14, a landlord must provide a seven-day notice for month-to-month tenancies or a two-day notice for week-to-week tenancies.
- **Eviction Process:** Under § 42-26, landlords must obtain a summary ejection order from the court to evict a tenant. This means they must file an eviction

lawsuit, attend a court hearing, and obtain a judgment. The process is designed to protect tenants' rights and ensure that evictions are lawful.

## **Chapter 72: Hotels, Motels, Tourist Camps**

### **Overview:**

Chapter 72 ("Hotels, Motels, Tourist Camps") pertains to businesses that provide transient lodging accommodations. It includes provisions for managing the occupancy of lodgers at establishments such as hotels, motels, inns, and tourist camps.

### **Key Applicable Sections:**

- **N.C. Gen. Stat. § 72-1:** Defines the scope of Chapter 72, including hotels, motels, inns, and other similar accommodations.

“(c) For the purposes of this section, a "transient occupancy" is the rental of an accommodation by an inn, hotel, motel, recreational vehicle park, campground, or similar lodging to the same guest or occupant for fewer than 90 consecutive days.”

Note: where the rental agreement is from month-to-month, it is my opinion that that is “fewer than 90 consecutive days.”

- **N.C. Gen. Stat. § 72-2:** Allows the owner or operator to remove a person who fails to pay for services or violates the rules. This section provides the framework for termination without needing to follow the more formalized eviction process found in Chapter 42.
- **N.C. Gen. Stat. § 72-6:** Addresses the lien rights of the proprietor on the property of the guest for non-payment of charges.

### **Termination of Tenancy Under Chapter 72:**

- **Immediate Removal Allowed:** Under § 72-2, the owner or operator of the RV park may remove a tenant who fails to pay for the site or violates park rules. This can be done without a court-ordered eviction, providing more immediate recourse compared to Chapter 42.
- **No Formal Notice Requirements:** Chapter 72 does not prescribe specific notice requirements for termination. This allows landlords to terminate occupancy more flexibly, depending on the terms of the rental agreement or the policies of the RV park.
- **Lien Rights:** Under § 72-6, the RV park may retain a lien on the tenant's property for unpaid charges, potentially giving them an additional method for dealing with non-payment.

## Key Differences in Termination Provisions

Aspect	Chapter 42: Landlord and Tenant	Chapter 72: Hotels, Motels, Tourist Camps
<b>Applicability</b>	Applies to residential leases, but specifically excludes transient accommodations governed by Chapter 72.	Covers transient lodging, including short-term rentals of RV sites.
<b>Termination Notice</b>	Required by § 42-14 (seven days for month-to-month, two days for week-to-week).	Not specifically required; governed by § 72-2 for rule violations or non-payment.
<b>Eviction Process</b>	Requires a court-ordered summary ejection under § 42-26.	Allows for immediate removal by the operator under § 72-2 without a court order.
<b>Grounds for Termination</b>	Grounds include non-payment, lease violations, or other causes stated in the lease (§ 42-26).	Grounds may include non-payment or park rules, as per § 72-2.
<b>Tenant Protections</b>	Offers extensive protections, including the right to a court hearing (§ 42-25.6).	Provides limited protections due to the transient nature of the occupancy.

**Board of Commissioners**

Kevin Seagle, Chair  
Roger Parsons Vice-Chair  
Kenneth Parton, Member  
Phil Carson, Member  
David Loftis, Member

Clerk to the Board  
Cindi C. Woodard  
c\_woodard@swaincountync.gov



**Building Inspections**  
50 Main Street  
P.O. Box 2321  
Bryson City, NC 28713

**County Manager**  
Kevin S. King  
k\_king@swaincountync.gov

Telephone: (828) 488-9273  
(828) 488-2600  
Fax: (828) 488-2754

October 2, 2024

TO: Campgrounds along the Tuckaseegee River

As the effects of Hurricane Helene continue to be felt throughout our region, our area was fortunate in that we had no loss of life to this natural disaster. However, your campgrounds did receive damage from the floodwaters of the Tuckaseegee River. Yesterday, you were all notified to treat your water supplies to ensure resident safety as we made assessments in the community. As we viewed the damage from the floodwaters of the Tuckaseegee River, it was apparent that you were not in compliance with the Swain County Flood Ordinance. The temporary structures (RV's) did sustain some damage along with the infrastructure of your campgrounds.

Per the Flood Ordinance, any temporary structure (RV) is supposed to be moved from the floodway/plain 72 hours before landfall or immediately upon flood notice. The Flood Notice was sent out on Thursday September 26, expiring on September 28. As evidenced by the damage to structures in your campground, the notice was not entirely heeded and steps were not taken to remove the structures/RV's.

As the campground owner/operator, it is your responsibility to ensure that the structures/RV's are moved to safe ground so they are not swept downriver where they would cause significant damage to bridges or other infrastructure. The structures/RV's are supposed to be connected to utilities by quick disconnecting means and moved to safe ground. This includes temporary structures that you have set up permanently. In the event of Flood Warnings, these things **MUST BE MOVED!** You have allowed residents to build decks etc, over the river that were washed away, causing hazards in the water. As the campground owner, it is your responsibility to maintain the premises at all times.

Please review the attached Swain County Flood Ordinance and make a plan for future weather events and your residents. If you have questions, please contact the Building Inspections Department.

Jason Webb  
Gina Wiggins  
Swain County Building Inspections  
50 Main Street  
Bryson City, NC 28713  
828-488-9273 ext 2268  
[gina.wiggins@swaincountync.gov](mailto:gina.wiggins@swaincountync.gov)



Recieved 10/9/24



Canton, NC 28716

To Whom It May Concern:

██████████ Conducted a walkthrough of the Ela Campground site post Hurricane Helene to assess damage. Based on a contract with the Kituwah Group, we installed approximately 2000 linear feet of 2 inch PVC waterline, a new tie in to the existing well pump and 105 water services, complete with frost free yard hydrants. Upon completion of the walkthrough, my assessment is as follows:

1. At least 20 of 105 of the frost-free yard hydrant were damaged to some extent by flood waters with approximately 10 of those leaking or completely separated.
2. No damage to 2 inch PVC watermain.
3. Electrical control panel at the well pump = total loss.
4. Well housing was displaced and in poor condition.
5. Well plumbing seems in tact above ground, but unable to assess due to the inability to apply pressure to the system.

I also suspect that the well itself has been contaminated by flood water and would need to be pumped completely and allowed to refill with clean well water.

**10/4/24**

## **Updated Press Release**

### **FOR IMMEDIATE RELEASE**

#### **Ela Campground Announces Temporary Closure Due to Extensive Flood Damage**

Bryson City, NC – October 2024 – Ela Campground has made the difficult decision to close due to significant damage from flooding caused by the remnants of Hurricane Helene.

Floodwaters inundated the entire campground by at least 3 feet of water, causing severe damage to the water supply, septic systems, and electrical infrastructure:

- The **water wells** were contaminated by silt and debris, rendering them unsafe for use.
- The **septic system** was overwhelmed, making it non-functional and requiring repairs.
- The **electrical system** was submerged for over 24 hours. According to the **National Electrical Code (NFPA-70)**, all electrical components must be replaced due to water and sediment damage, as corrosion and failure are now inevitable.

Power has been cut off by Duke Energy to prevent hazards. The campground will remain closed until further notice.

For more information, please visit [www.elacampground.com](http://www.elacampground.com).



**\*\*NOTICE To EVACUATE / CLOSURE TO PUBLIC\*\***

October 1, 2024

To Whom It May Concern:

This is to inform you that the property located at 5100 Ela Road (All Ela Campground Properties) Bryson City, NC 28713 has been **officially closed due to safety concerns for an indefinite period and MUST be evacuated**. Infrastructure, including sewer, water and electrical systems suffered major catastrophic damage during the recent flooding event. Due to the damage and loss of these systems it is unsafe to occupy the campground. Duke Energy will be disconnecting power to the campground due to the safety hazards.

Failure to vacate or engaging in vandalism to property may result in trespassing and enforced by local law enforcement.

Refer to the handout with information for emergency resources.

We recommend you reach out to your insurance company to file an insurance claim as this is a necessary step in the disaster recovery process.

To schedule the removal of personal items, please coordinate with [REDACTED] via email at [REDACTED] or by phone at [REDACTED].

Sincerely,

Ela Campground Management



## SWAIN CO. HOUSING RESOURCES

### Emergency Shelter

**Agency Name:** HERE in Jackson County  
**Address:** 77 East Gate Dr, Sylva, NC 28779  
**Phone:** 828.477.4946  
**Website:** <https://www.hereinjacksoncounty.org>  
**Service (s) Offered:** Home Equity Resources & Education

**Agency Name:** Restoration House WNC  
**Address:** 81 Academy St., Bryson City, NC 28713  
**Phone:** 828.538.4540  
**Website:** <https://www.restorationhousewnc.org>  
**Service (s) Offered:** Medical services, financial counseling, relational mediation

### Housing / Utilities / Rent

**Agency Name:** HUD  
**Address:** 101 Mitchell Street, PO Box 2321, Bryson City, NC 28713  
**Phone:** 828.488.2685  
**Website:** [https://www.hud.gov/states/north\\_carolina/offices](https://www.hud.gov/states/north_carolina/offices)  
**Service (s) Offered:** Housing assistance



**\*\*\*ATTENTION - ELA CAMPGROUND FEMA UPDATE\*\*\***

Ela Campground is located in Swain Co., one of the counties currently awaiting a Hurricane Helene FEMA Disaster Declaration and eligibility for Individual Assistance.

FEMA may be able to help you with home repairs, temporary housing, or property damage (appliances, furniture, vehicle, etc). You may also qualify for help with childcare, medical, lodging, moving, and funeral expenses.

This process can be completed electronically at:

<https://www.disasterassistance.gov>

\*To get free local internet connection, visit:

Marianna Black Library: 33 Fryemont St. Bryson City, NC 28713

It's okay if you don't have all the details for your application now. After you create an account, you can save your progress and come back to finish it later.

You can also Apply/Check your status by phone **1-800-621-3362** once cellular service is restored.

Please take a picture of this flyer and share as needed.

*Oct. 2 2024*

Subject : Ela Campground

Fri 9-27-24 1:06pm

I was at the campground at this time to see the Damage first hand of hurricane Helen. Upon arriving, the banks of the Tuckasegee River had just crested the banks. During this time I received notice that the Dam for the river was at a critical level and the water would continue to rise. This brought the water level at Ela Park to more then 36'-45' in. of flowing water.

Sections – A,B,C and D were under water at this time. The water was as noted very silty with dirt and very fast moving and full of debris ( tree's, lumber, ect.) At the highest point the water was notably high enough to enter most of the trailers at the sites. The individual site power distribution pedestals were totally covered. This continued for more then 24 hours. At which time, that the water receded and I was able assess the damage I requested that Duke Energy cut power to the park for obvious reasons.

I will, best of my knowledge list each of the sections.

Section A :

In this section both water well received damage the new controller at the new well was ruined, the expansion tank floated and silted water entered the well. The second well received the same both wells will need replacement. All site power was under water for at least 24 Hrs. Sub panels received water damage including the basement of the store were there is still standing water.

Sections B,C,D:

I will include these three sections because the result is the same for each. All site power has been compromised. The three sections took the brunt of the damage. The site power was underwater for the same amount of time dirt and sediment has entered most if not all of the sites. At this time I must recommend to side on safety, Power should not be turned on until a site to site inspection and replacement is implemented.

According to: NFPA-70 312.2, 404.4, 404.4, 551.78 551.71 of the National Electrical Code  
None of the listed items carry a Nema 6 or 6P rating for full submersion in water. Let alone sediment and corrosion of each item. All suppliers of the items do not warranty there items if they have been immersed in water for any length of time.

In reference to:

NEMA.ORG-ELECTRICALWATER DAMAGE.

EFCL.ORG The Electrical Safty Foundation International.

Local and State Building Inspectors that I contacted the recommendations are the same.

1. All Breakers, Pedestals, receptacles pumps, Controllers and Panels are to be replaced.

Summery. Life safety is my biggest concern at this time due to the amount of sediment and water damage, Corrosion will happen, failure will happen to some point it is just a matter of time.

Thank You.

