

**15. CONSIDERATION OF A RESOLUTION CREATING LIENS TO SECURE EXPENSES ASSOCIATED WITH GRASS CUTTING**

Attached for your consideration, please find a resolution prepared by Mr. Railey which asserts liens on four (4) parcels of property that were the subject of enforcement actions by the Department of Community Development for violations of Section 10-48 of the Southampton County Code (Weeds, Grass and Unhealthy Growth).

Following due notice, the owners failed to respond and Southampton County contracted to have the work performed, the cost of which is now chargeable to the owners of the property.

**MOTION REQUIRED:** A motion is required to adopt the attached resolution.

# R & R

RECEIVED JUL 10 2013

**RAILEY AND RAILEY, P.C.**  
ATTORNEYS AND COUNSELLORS AT LAW

**PERSONAL INJURY LAW SINCE 1948**

RICHARD E. RAILEY 1922-2004

RICHARD E. RAILEY, JR.  
R. EDWARD RAILEY, III

WALLACE W. BRITTLE, JR.

Reply to:

P. O. Box 40  
Courtland, VA 23837

E-mail: [edward@raileyandrailey.com](mailto:edward@raileyandrailey.com)

July 3, 2013

Mr. Michael W. Johnson, Administrator  
Southampton County  
Post Office Box 400  
Courtland, VA 23837

Re: Resolution as to Creation of Liens Securing Expenses of Enforcement of the  
Grass Cutting Ordinance

Dear Mike:

I am enclosing herewith a resolution to be adopted at the July meeting. Your cooperation will be appreciated.

With kind personal regards, I am

Very sincerely,  


Richard E. Railey, Jr.

let  
Enclosure

22237 Main Street  
P.O. Box 40  
Courtland, VA 23837  
(757) 653-2351  
Fax: (757) 653-0930

P. O. Box 189  
Waverly, VA 23890  
(804) 834-2599

10451 General Mahone Highway  
P.O. Box 98  
Wakefield, VA 23888  
(757) 899-2145  
Fax: (757) 899-2146

**RESOLUTION AS TO CREATION OF LIENS SECURING EXPENSES OF  
ENFORCEMENT OF THE GRASS CUTTING ORDINANCE,  
SEC. 10-48 OF THE SOUTHAMPTON COUNTY CODE**

**WHEREAS**, Sec. 10-48 of the Southampton County Code, entitled Weeds, Grass and Unhealthy Growth, provides in pertinent part

"A. It shall be unlawful for any owner, lessee or occupant, or any agent or representative, or employee of such owner, lessee or occupant, having control of any parcel of land in the County to allow, permit, or maintain any growth, weeds, grass or unhealthy growths thereon or along the sides thereof within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use in the County to a height exceeding twelve (12) inches."

and

**WHEREAS**, said Sec. 10-48 further provides that when any condition exists on any lot or parcel of land in the County in violation of subsection A of this section, it shall be the duty of a designee, as determined by the Board of Supervisors, to serve or cause to be served notice upon the owner, lessee, or occupant of such lot or parcel of land, requiring the owner, lessee or occupant of such lot to cut and remove the weeds, grass, or unhealthy growths existing upon such lot or parcel within ten (10) days of service of such notice upon such owner, lessee or occupant; and

**WHEREAS**, said Sec. 10-48 further provides that if such owner, lessee or occupant fails to act or remove the weeds, grass, or unhealthy growth within the time specified in such notice, the Board shall, through its agents or employees, have such weeds, grass or unhealthy growth cut, and in that event, the costs and expense thereof shall be chargeable to and paid by the owner of such property and may be collected by the County as taxes and levies are collected; and

**WHEREAS**, Beth Lewis, Community Development Director, acting on behalf of the Southampton County Board of Supervisors, has provided notice to the below listed landowners, in Schedule "A" attached hereto and made a part hereof, in accordance with the provisions of Sec. 10-48, as to their violations of said Sec. 10-48; and

**WHEREAS**, the owners listed on Schedule "A" attached hereto and made a part hereof have failed to respond to said notices and have failed to cure such violations; and

**WHEREAS**, in accordance with the provisions of said Sec. 10-48, said Community Development Director has contracted for such weeds, grass or unhealthy growth to be cut so as to bring such lots into compliance with paragraph A of said Sec. 10-48; and

**WHEREAS**, in cutting said weeds, grass or unhealthy growth, Southampton County has incurred costs and expenses that shall be chargeable to and paid by the owners of such property, and collected by the County as taxes and levies are collected, in accordance with the provisions of Sec. 10-48; and

**WHEREAS**, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, such lien securing the costs and expenses of such grass cutting shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien unless, at the time of the transfer of record of the real estate to the purchaser, a statement containing the name of the record owner of the real estate and the amount of such unpaid charges, as entered in the Judgment Lien Book in the Clerk's Office where deeds are recorded, or is contained in the records maintained by the Treasurer for real estate liens, pursuant to §58.1-3930 of said Code; and

**WHEREAS**, in accordance with §15.2-104 of the 1950 Code of Virginia, as amended, it is necessary that a statement containing the name of the record owner of the real estate and the amount of such unpaid charges be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and in the Southampton County Treasurer's Office.

**NOW, THEREFORE**, be it therefore resolved by the Board of Supervisors of Southampton County, Virginia, that in accordance with Sec. 10-48 of the Southampton County Code and §§ 15.2-901 and 15.2-104 of the 1950 Code of Virginia, as amended, a lien is hereby asserted against each lot or parcel of land identified herein in Schedule "A" attached hereto for the amount identified beside said parcel or tract of land; and

**BE IT FURTHER RESOLVED**, by the Board of Supervisors of Southampton County, Virginia, that notwithstanding said lien hereby asserted, the amount secured by said lien shall continue to be the obligation of the owner of such real estate at the time said costs and expense are incurred; and

**BE IT FURTHER RESOLVED**, by the Board of Supervisors of Southampton County, Virginia, that the said Beth Lewis, Community Development Director, acting on behalf of the Southampton County Board of Supervisors, shall cause a statement as provided by §15-104 of said Code, containing the name of the record owner of the real estate, the amount of such unpaid charges, and such other information as may be pertinent in identifying such real estate, to be entered in the Judgment Lien Book in the Clerk's Office of the Circuit Court of Southampton County and in the Southampton County Treasurer's Office, as provided by §15.2-104; and

**BE IT FURTHER RESOLVED**, by the Board of Supervisors of Southampton County, Virginia, that all actions taken by the said Beth Lewis, Community Development Director, acting on behalf of the Southampton County Board of Supervisors, in accordance with the provisions of Sec. 10-48 are hereby **RATIFIED, CONFIRMED and APPROVED**.

The undersigned Clerk of the Board of Supervisors of Southampton County, Virginia certifies that the foregoing constitutes a true, complete and correct copy of the Resolution adopted at a regular meeting of the Board of Supervisors of Southampton County, Virginia held on July 22, 2013.

---

Clerk, Board of Supervisors  
Southampton County, Virginia

**SCHEDULE "A"**

**LOTS OR PARCELS FOUND TO BE IN VIOLATION OF SEC. 10-48 A. OF THE  
SOUTHAMPTON COUNTY CODE AND REQUIRING THE CUTTING AND REMOVING OF  
WEEDS, GRASS, OR UNHEALTHY GROWTH EXISTING UPON SUCH LOTS OR PARCELS, IN  
ACCORDANCE WITH SEC. 10-48 B**

<u>Property address</u>	<u>Name and address of owner</u>	<u>Date invoiced</u>	<u>Costs of cutting and collection costs</u>
17516 Johnsons Mill Road Sedley, VA 23878	Gerald Joyner and Lisa Joyner 17516 Johnsons Mill Road Sedley, VA 23878	June 6, 2013	\$130.00 (\$30.00 certified mailing and legal)
25403 Tennessee Road Drewryville, VA 23844 (Tax Parcel 68-57C)	Daniel Ivy and Juanita Ivy 25403 Tennessee Road Drewryville, VA 23844	May 13, 2013	\$230.00 (\$30.00 certified mailing and legal)
36243 Seacock Chapel Road Zuni, VA 23898 (Tax Parcel 23-6-1)	Stephen Smith and Laura Smith 36243 Seacock Chapel Road Zuni, VA 23898	May 13, 2013	\$355.00 (\$30.00 certified mailing and legal)
22460 Homestead Lane Franklin, VA 23851 (Tax Parcel 77E-1-SE3-72)	Donald Moyer and Virginia Moyer 22460 Homestead Lane Franklin, VA 23851		\$155.00 (\$30.00 certified mailing and legal)
<b>TOTAL COSTS</b>			<b>\$870.00</b>