AN ORDINANCE AMENDING CHAPTER 7 ENTITLED OFFENSES – MISCELLANEOUS OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA BY CREATING ARTICLE V ENTITLED REMOVAL OR DISPOSAL OF TRASH, CUTTING OF GRASS AND WEEDS SECTIONS 7-85 THROUGH 7-91 MAKING IT ILLEGAL TO ACCUMULATE TRASH AND WEEDS IN EXCESS OF TWELVE (12) INCHES ON ANY PARCEL IN AREAS ZONED RESIDENTIAL, BUSINESS, COMMERCIAL OR INDUSTRIAL OR IN AREAS WITHIN THE BOUNDARIES OF PLATTED SUBDIVISIONS

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 7, entitled Offenses-Miscellaneous of the Code of the County of Montgomery, Virginia shall be amended and reordained by adding Article V entitled Removal or Disposal of Trash, Cutting of Grass and Weeds, Section 7-83 through 7-91respectively as follows:

ARTICLE V. – REMOVAL OR DISPOSAL OF TRASH, CUTTING OF GRASS AND WEEDS

Section 7-85 Definition.

The following words, terms and phrases when used in this Article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

***Abatement Cost*: The County's cost of labor, equipment, administrative costs and supplies for or the contract price of, and any charges to, the County, with respect to the removal and disposal of grass, weeds or trash from a parcel.**

***Enforcement Agent*: The County Administrator or his designee.**

***Occupant*: Any person age eighteen (18) or older who resides in a single family dwelling, duplex or townhouse, whether or not the person is the lessor. Occupant also means any person who possess and uses commercial, industrial or residential property with permission of or by contract or lease with the Owner.**

***Owner*: The Owner of record of real property.**

***Owner Agent*: Any person appointed or employed by the Owner for the purpose of managing the Owner's real estate.**

***Parcel*: Any real estate or any interest therein, situate, lying and being in the County in areas zoned for residential, business, commercial or industrial uses or in areas within the boundaries of platted subdivisions.**

***Trash*: Abandoned personal property, garbage, refuse, rubbish, litter or debris.**

***Weed or Weeds*; Grass, plants, weeds, poison ivy, poison oak, or any other vegetated growth, other than trees, ornamental shrubbery, flowers, garden vegetables, cultivated crops, hay grown, mowed and stored for animal feed or undisturbed woodland.**

Section 7-86 Accumulation of trash or weeds prohibited; duty of Owner and Occupant.

Weeds growing in excess of twelve (12) inches in height or trash lying on any parcel shall constitute a public nuisance. It shall be unlawful for the Owner and/or Occupant of any parcel to permit weeds of more than twelve (12) inches in height or the accumulation of trash on any parcel. It shall be the joint and several duty of the Owner and Occupant of any parcel to immediately cut, remove or destroy any and all weeds exceeding twelve (12) inches in height and to remove trash from the parcel.

Section 7-87 Penalty.

Any Owner or occupant who violates Section 7-86 or any other provisions of this Article shall be subject to a civil penalty of Fifty Dollars ($50.00) for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall be Two Hundred Dollars ($200.00). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of Three Thousand Dollars ($3,000) in a twelve (12) month period.

Section 7-88 Notice to Remove Weed(s) or Trash.

(a) When the County Administrator or designee determines that a violation of this Article exists with respect to any parcel, the County Administrator or designee shall deliver written notice to the Owner and/or Occupant, via one or more of the following methods:

1. **Mail written notice thereof to the Owner, at the Owner's address as determined from public records, via certified mail.**
2. **Mail written notice thereof to the Occupant, at the address where the violation is observed, via certified mail.**
3. **Hand deliver written notice to the Owner, Owner's Agent and/or Occupant personally or by posting notice, indicating the date, time and place of personal delivery or posting.**

(b) The Notice shall:

1. **Set forth the alleged violation of this Article and what needs to be done to remedy the violation**

2. **Describe the parcel of real property by street address, Tax Map Parcel No. and/or by any other reasonable alternative means.**
3. **Demand the removal of the weed(s) or trash.**
4. **Advise that if the weed(s) or trash are not removed within ten (10) calendar days of the delivery, mailing or posting, of the Notice, the County will proceed to remove them, with the costs thereof together with an administrative fee authorized by this Article being specifically assessed against the Owner and the Parcel.**
5. **Advise that the County's cost together with the administrative fee shall constitute a lien against the property in favor of the County ranking on a parity with liens for unpaid local taxes.**
6. **Afford the Owner and/or occupant an opportunity to meet with the County Administrator or designee for a hearing on the alleged violation, on the proposed action and the consequences thereof.**

(c) The Owner and/or Occupant may request a hearing with the County Administrator or designee, in writing, within the ten (10) calendar day period set forth in the Notice. In the event the Owner and/or Occupant requests a hearing, the County Administrator or designee shall set a hearing and notify the Owner and/or Occupant of the time and location of the hearing, to be held within five (5) days from the date the County Administrator's or designee's receipt of the request for a hearing. The County shall postpone any enforcement action until after the date and time set for the hearing.

Section 7-89 Performance of Work by County.

If the Owner and/or occupant shall fail to complete the abatement of the weed(s) or trash within the time specified in the written notice, the County Administrator or designee may direct the County forces to abate or complete the abatement of the violation. In the alternative, the County Administrator or designee may contract for this work to be done by a private contractor.

Section 7-90 Costs of County Action Constitute Lien on Property; Administrative Fee Authorized.

In any case where the County has delivered written notice to the Owner through one of the methods prescribed above, the costs of any County action to abate a weeds and/or trash violation shall constitute a lien against the parcel. In addition, an administrative fee of One Hundred Fifty Dollars ($150.00) or twenty-five (25) percent of the cost, whichever is less, but in no event less than Twenty-Five Dollars ($25.00), is hereby ordained to be assessed against the Owner. The cost plus the administrative fee shall constitute a lien against the parcel, ranking on a parity with liens for unpaid local taxes, and are enforceable in the same manner. Such liens may be waived in order to facilitate the sale of

the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the Owner and who has no business association with the Owner. All such liens shall remain a personal obligation of the Owner of the property at the time the liens are imposed.

Section 7-91 Exemptions.

The requirements of this Article shall not have any force and effect within:

a) the corporate limits of the Towns of Blacksburg and Christiansburg;
b) areas used for pastures, under cultivation, active farming operations, forested, or subject to utility transmission;
c) areas where the vegetative growth is regulated under State or Federal laws or programs;
d) any stream buffer required by County ordinance or protected under permanent conservation easement;
e) areas under an approved plan of natural landscaping;
f) property designated through an approved zoning or subdivision plat as open space, green space, conservation or preservation area and that is intended to remain in its natural state;
g) public park lands; or
h) stormwater management facilities such as detention ponds.