

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL SKY VALLEY ORDINANCES 12-01 and 14-06
AND TO ESTABLISH A NEW ORDINANCE
FOR THE PROTECTION OF TREES AND NATIVE PLANTS
WITHIN THE CITY LIMITS OF SKY VALLEY**

WHEREAS, trees provide important environmental and aesthetic benefits to the people and guests of the City of Sky Valley which extend beyond the boundaries of the property on which they grow; and

WHEREAS, trees impact real estate values throughout the community;

WHEREAS, trees provide important health benefits to the citizens and guests of the City of Sky Valley which extend beyond the boundaries of the property on which they grow;

WHEREAS, large trees are a resource which cannot reasonably be fully replaced if injured, damaged, or removed;

WHEREAS, the City of Sky Valley believes that trees are essential to maintaining the quality of life that we enjoy in our community and in creating a valuable natural legacy for future generations;

WHEREAS, the City of Sky Valley recognizes the most important role of government is the protection of its citizens' safety and welfare, and that trees and other vegetation may present both fall danger and fire danger if not managed and properly controlled;

WHEREAS, the City Council has determined that the impact of any tree to the road right-of-way and neighboring properties should be considered when considering the issuance of tree removal permits;

WHEREAS, the City of Sky Valley recognizes that from time to time property owners want or need to remove trees;

WHEREAS, the City of Sky Valley understands and appreciates that the attainment and preservation of dramatic mountain views is a major consideration for many property owners, and that fact will be given due consideration in the permitting process; and

WHEREAS, the City of Sky Valley finds that because of environmental and aesthetic concerns it is in the public interest of the citizens of Sky Valley to protect trees by imposing certain restrictions on pruning and the removal of trees.

NOW THEREFORE, The Council of the City of Sky Valley hereby ordains:

Section 1. Intent.

This tree ordinance shall apply to property or portions thereof located within the corporate limits of Sky Valley, Georgia. The Mayor and Council find, based upon information presented through public input and during public hearings that (1) the protection and preservation of trees; (2) the planting of new trees and other landscape material; and (3) buffers between dissimilar uses serve a legitimate and valuable purpose and provide for the public health and general welfare of the citizens of Sky Valley, Georgia.

Section 2. Purpose.

Trees are important for shading and cooling, reducing noise and wind, for preventing soil erosion, protecting water quality, producing oxygen, dust filtration, fostering air quality through carbon dioxide absorption, protecting wildlife habitat, and contributing to the aesthetic and economic value of real property.

Consistent with the above, the purpose of the tree ordinance is to preserve and enhance Sky Valley's natural environment. This purpose will be accomplished through the preservation, protection and planting of trees and other landscape material.

Section 3.

The City of Sky Valley in enacting this ordinance recognizes that there is presently no property in Sky Valley used for timber harvesting, commercial agriculture purposes, plant or tree nurseries, orchards, trees in active commercial operation, botanical gardens, or other commercial purposes. The City further recognizes that the zoning ordinance of the City of Sky Valley provides for commercial and retail operations in the Commercial and Municipal district. The zoning ordinance of the City of Sky Valley provides for permitted and conditional uses and provides a procedure for a use not listed or itemized to be permitted. In the event a conditional use is allowed or permitted for the purposes enumerated herein, the City of Sky Valley will determine the application of this tree ordinance under the intended purpose and may conditionally modify the application of this tree ordinance consistent with the intent of this tree ordinance to accommodate any such commercial use.

Section 4. Definitions.

The following definitions are applicable to this ordinance:

- (1) Clear-cutting - Removal of all merchantable trees and vegetation from a selected area.
- (2) Crown – The crown is made up of the leaves and branches at the top of a tree.
- (3) Crown Reduction – The reduction in height and/or spread of the Crown.
- (4) Crown Thinning - The selective removal of branches to reduce Crown density. This promotes better form and health by increasing light penetration and air movement. Strong emphasis is on removing weak

branches. Crown Thinning does not alter the overall size or shape of the tree.

- (5) Diameter at Breast Height (DBH) – The circumference of a tree measure around the tree at 4.5 feet above the ground divided by 3.14.
- (6) Drop Crotch Pruning – Shortening branches or the trunk by pruning back to a lateral branch (crotch).
- (7) Footprint – Includes the area covered by any approved building and permitted dwelling or commercial business plus 20 feet from the edges of the approved structure and 15 feet from the driveway and parking area. The footprint will further include the septic tank location and leach field.
- (8) Hardwood Tree - Trees with broad, flat leaves as opposed to coniferous or needled trees. Wood hardness varies among the hardwood species. Common hardwood in the region include oak, elm, maple, hickory, birch, beech, locust, poplar and cherry.
- (9) Hazardous Tree – A tree that is at risk for failure because it is dead or structurally defective, in a location where that failure could result in personal injury or property damage.
- (10) Maintenance Pruning – Regular selective pruning is a way to keep woody plants healthy and productive. One aim of maintenance pruning is to protect your woody plants from pests and disease, which can gain entry into a plant through dead wood, broken branches, and wounds caused by branches that are rubbing together. By thoughtfully cutting back tips, branches, limbs, and stems, you can also encourage youthful growth that produces abundant flowers and fruits as well as prevent the spread of pests and disease. Maintenance Pruning does not include Crown Reduction for trees.
- (11) Mitigation – The planting of new trees and/or shrubs on a parcel to replace those removed.
- (12) Mountain Protection District - The Mountain Protection District - Comprised of all land area within the jurisdiction of Sky Valley, Georgia, that is 2,200 feet or more above mean sea level that has a percentage slope of 25 percent or greater for at least 500-feet horizontally.
- (13) Native Plants and Shrubbery – Plants and Shrubbery that measure five (5) or more feet in height that are naturally occurring in the region. For purposes of this ordinance, this only includes native Rhododendron, Mountain Laurel and Azalea.
- (14) Permit – The official document issued by the City authorizing work to be completed which is subject to this ordinance.
- (15) Replacement Trees/Shrubs – Approved trees and shrubs may be used for mitigation. Replacement Trees may be no less than 1-inch in caliper. 15-gallon nursery grown trees shall be considered equivalent to 1-inch for mitigation purposes. Replacement Shrubs may be no less than 3 gallons each in size. One 3-gallon nursery grown shrub shall be equivalent to 1/2-inch for mitigation purposes.

- (16) Site Plan – A simple drawing of a property as seen from above including owner’s name, site address, property boundary lines, structures, driveway, and location, DBH and species (if known) of each tree requested for removal.
- (17) Specimen Tree – Hardwood or softwood tree with a DBH of 24” or more and flowering trees, including but not limited to, Dogwood, Redbud and Sourwood with DBH of 10” or more.
- (18) Softwood - Softwood or Coniferous trees are usually evergreen, bear cones, and have needles or scale-like leaves. Common softwoods in the region include Pine, Fir, Cedar, Hemlock and Spruce.
- (19) Street Tree – Tree planted in or adjacent to the road right-of-way.
- (20) Thinning – The selective removal of certain trees from a stand to regulate the number, quality, and distribution of the remaining trees. Deliberate control of stand density by thinning can improve vigor, growth rate and quality of the remaining trees. Thinning also allows for planting of suitable understory plants.
- (21) Topping – The removal of large portions of the crown of the tree by the making of horizontal cuts, generally through the main stem.
- (22) Tree – Any tree that measures eight (8) or more inches in diameter at Diameter at Breast Height (DBH).
- (23) Vista Pruning – Selective removal or reduction of branches in the tree’s crown to allow a specific view of an object from a predetermined point.

Section 5. Pruning

- (1) Maintenance Pruning
 - (a) Maintenance Pruning is permissible without a permit.
 - (b) Maintenance Pruning does not include Crown Reduction.
- (2) Vista Pruning

The two main techniques that are used when vista pruning are crown reduction and crown thinning.

 - (a) Crown Reduction (reducing the height or spread of a tree)
 - 1. Crown Reduction (also known as drop-crotch pruning) may be used to enhance or maintain a view or to reduce the size of a tree that has grown too large for its permitted space. This procedure removes the end of a branch or top of the trunk by cutting back to a “crotch” created by a lateral (side) branch.
 - 2. Crown Reduction requires a permit.
 - 3. For permit approval, there must be a strong side branch along the main stem or trunk that can assume the terminal control over the tree. Portions of the tree above that point may be removed to reduce the height and spread of the tree.
 - 4. Topping is considered an inappropriate pruning technique and is not permitted.

- (b) Crown Thinning a tree may also be used to enhance or maintain a view. The primary guideline for vista pruning by crown thinning is to provide the homeowner with "windows" that occur within the tree canopy. Crown Thinning does not require a permit.

Section 6. Tree Removal – Removal of Dead/Hazardous/Diseased Trees

- (1) Removal of Dead/Hazardous/Diseased Trees is permissible with a permit. No application fee will be required.
 - (a) Hazardous trees shall include, but not be limited to, those that are within the footprint as defined herein.
 - (b) If tree(s) are dead, hazardous, or diseased, a permit for their removal will be issued by the City upon written request and verification by the City Code Enforcement Officer or his/her designee.
 - (c) If there is a disagreement regarding the validity of the tree(s) being dead, hazardous, or diseased, a statement from a certified arborist may be required.
- (2) Emergency Removal
 - (a) In case of an emergency caused by a tree being in a hazardous or dangerous condition posing an immediate threat to person or property, such tree may be removed without a permit if notification of such an emergency is made to the Sky Valley Police Department prior to the removal.

Section 7. Tree Removal – Thinning of density

- (1) Thinning trees is the removal of certain trees (including specimen trees) from a stand to regulate the number, quality, and distribution of the remaining trees. Deliberate control of stand density by thinning can improve the vigor, growth rate and quality of the remaining trees. Thinning will also allow space for planting of suitable understory plants.
- (2) Thinning by removal may be considered by evaluating size, species and the effect the intended removal will impact the area. Thinning by removal requires a tree cutting permit.
- (3) No mitigation is required for approved thinning.
- (4) No more than one half (1/2) of a stand density around any tree within the minimum spacing radius will be considered for removal within a two-year period.
- (5) Spacing criteria to be considered in evaluating a tree removal permit application for thinning a stand density.

DBH - Minimum spacing between trees of like or greater size

8 – 11 inches	20 feet
12 – 15 inches	25 feet
16 – 19 inches	30 feet
20 + inches	40 feet

For example, the largest tree in a stand will be the controlling point. If you had a 20" DBH tree, a radius of 40 feet would be drawn around it. Up to one half (1/2) of the trees less than or equal to 20" would be considered for removal within that

40 feet.

Section 8. Healthy Tree Removal

- (1) The removal of any other healthy tree 8" DBH or greater that does not meet the thinning criteria and is not otherwise considered dead, diseased or hazardous will be considered following the Code Enforcement Officer's review of the tree cutting permit application, site plan and mitigation plan. The following factors will be reviewed and be the basis for granting or denying the requested permit.
 - (a) Whether the trees intended for removal are within the Mountain Protection District, and if so, if a reforestation plan has been submitted;
 - (b) Whether the trees intended for removal are Specimen trees;
 - (c) Whether the trees intended for removal will impact erosion in the area;
 - (d) Whether the retention of the trees is necessary to prevent excess water runoff;
 - (e) The condition of the trees with respect to danger or interference with any structures on the property.
 - (f) The number and types of trees on the lot. No clear-cut openings in the existing tree canopy will be permitted without a well-distributed stand of trees or other adequate vegetative buffer being left between the adjoining property owners or the road right-of-way.
 - (g) The contribution of the trees to the natural beauty of the area;
 - (h) The effect of removal or relocation on property values in the area;
 - (i) The necessity, or lack thereof, to remove the trees to allow reasonable economic use and enjoyment of the property;
 - (j) The impact of any tree on the right-of-way;
 - (k) Whether the construction of structures or improvements on any property would necessitate the removal of any trees.
- (2) The value of healthy trees removed will be determined by adding the total DBH of all trees authorized for removal by the permit.
- (3) Mitigation (replanting) will be required for all healthy tree cutting permits as defined in this section.
 - (a) Required mitigation of healthy trees will be equal to 25% in inches of the total value DBH as determined by the Code Enforcement Officer.
 - (b) Mitigation will require replanting of Replacement Trees/Shrubs.
 - (c) All proposed Replacement Trees/Shrubs shall generally conform to the official Recommended Plant List of suitable plant types, which shall be maintained in the office of the City Clerk. Approved plants need not match specific plants in the list, but the plants shall follow the parameters defined by the list.
 - (d) Replacement or planting of street trees:
 - a. Must be evaluated based on estimated size at full maturity;
 - b. Must provide at least eight (8) feet of clearance at maturity for pedestrians and vehicles to avoid hazards created by low hanging tree branches;
 - c. Must be planted at least twenty (20) feet from the edge of roadway;
 - d. Must not impede safety or line-of-sight or interfere with lane of travel;
 - e. Must be of horticulturally appropriate species for use in road frontage areas;
 - (e) Replacement trees must be planted within the 90 days of the tree removal

- unless otherwise approved by the Code Enforcement Officer;
- (f) Replacement trees shall be planted on the same property unless otherwise approved by the Code Enforcement Officer.
 - (g) If the replacement tree dies within two (2) years, it shall be replaced by the property owner with a tree of equal value.
 - (h) If replacement trees are not planted within ninety (90) days or such date otherwise approved by the Code Enforcement Officer, the property owner will be in violation of their permit and will be subject to penalties as provided herein.

Section 9. Protected Native Shrubbery and Specimen Trees.

- (1) It shall be the policy of the City of Sky Valley that Native Shrubbery and Specimen Trees shall be preserved insofar as practical and reasonable in order to retard surface runoff and soil erosion and, protect their native species.
- (2) The removal of Native Shrubbery and Specimen Trees may be permitted on a limited basis as follows:
 - (a) With a permit as necessary for placing public roads, utilities, structures and parking areas; or
 - (b) With a permit for minimal selective cutting of Native Shrubbery or Specimen Trees.
 - (c) Selective removal permits will be evaluated based on the following criteria:
 - a. Overall condition of tree or plant;
 - b. How removal will impact erosion in the area;
 - c. How removal will impact water runoff;
 - d. The density of native plants or specimen trees on the lot;
 - e. The contribution of the Native Shrubbery or Specimen Trees to the natural beauty of the area;
 - f. The necessity, or lack thereof, to remove the Native Shrubbery or Specimen Trees to allow reasonable economic use and enjoyment of the property;
 - g. The impact of any Native Shrubbery or Specimen Trees on the right-of-way;
 - h. The buffer left between the adjoining property owner or the road right-of-way; and
 - i. Reasonable wildfire protection of structures under Sky Valley's Firewise guidelines.
 - (d) Maintenance Pruning is permitted without a permit.
 - (e) Approval of a permit for minimal selective cutting or removal of Native Shrubbery or Specimen Trees will require mitigation unless it falls within the Thinning of Density guidelines set forth in Section 7.
 - (f) Mitigation (replanting) will be required for selective cutting and removal of all healthy native shrubbery and specimen tree permits as defined in this section.
 - a. Required mitigation for Specimen Trees will be equal to replacement of 25% in inches of the total value DBH determined by the Code

Enforcement Officer with Replacement Trees/Shrubs as defined herein.

- b. Required mitigation for Native Shrubbery will be equal to replacement of 100% of the total quantity of native shrubs cut as determined by the Code Enforcement Officer. Native shrubs may be replaced with Replacement Trees/Shrubs as defined herein.
- c. All proposed plants shall generally conform to the official Recommended Plant List of suitable plant types, which shall be maintained in the office of the City Clerk. Approved plants need not match specific plants in the list, but the plants shall follow the parameters defined by the list.

Section 10. Final Inspection.

- (1) The Owner or Licensed Contractor doing the work is responsible for making sure that all tree cuttings are removed within 14 days of cutting and for calling the City Code Enforcement Officer for a final inspection within said 14-day period to avoid penalties.
- (2) Tree cuttings authorized under this permit are not eligible to be left out for the City's chipping service. Tree cuttings that a homeowner desires to keep as firewood may be approved at the reasonable discretion of the Code Enforcement Officer if such cuttings are of a typical fire log size and stacked near the home in such a manner as to be practically used for such a purpose.

Section 11. Procedure for Issuance of a Tree Cutting Permit.

- (1) Any landowner in the City of Sky Valley wanting to reduce the crown or height of a tree, cut a tree 8" or more DBH, thin a stand of trees, remove a dead, diseased or hazardous tree or remove protected Native Plants/Shrubbery or Specimen Trees must first complete an application for a tree cutting permit on forms designated by the City of Sky Valley and file said application with the office of the City Clerk.
- (2) The application shall include the following:
 - Owner and Applicant, name, phone and signature.
 - Site Address
 - Site Plan/Sketch identifying property boundaries
 - Location of driveway, house and other structures
 - Location, DBH (measured at 4.5' above grade), and species of all trees on the property requested for removal. Each tree must be shown in correlation to the property line, buildings and driveway.
 - Reason for removal
 - Mitigation Plan (except in the case of selective thinning of a densely wooded lot or the removal of dead, hazardous and diseased trees) to include location of replacement trees
 - Tree Removal Contact name, phone and insurance information.
- (3) Tree Cutters that perform work within the city must be insured with liability and workers' compensation insurance unless the homeowner signs an affidavit of responsibility for any damages.

- (4) All permit applications must be accompanied where required with the application fee.
- (5) In order to identify tree by location the applicant must, prior to submitting the application, mark each tree by placing a colored ribbon around the circumference of the tree at approximately 3 to 4 feet off the ground.
- (6) Cutting or removing trees on another person's land will require a signed written permission from that landowner to be sent to City Hall before a permit will be issued.
- (7) The owner must certify familiarity with the terms of this ordinance and the applicant must certify the person or business entity cutting and removing trees is familiar with the ordinance.
- (8) The City Code Enforcement Officer shall within ten (10) working days of the filing of the application (unless a longer time is agreed by the applicant) visit the property, confirm that the application is complete and make a written recommendation to the city manager that a permit be issued, modified or denied.
- (9) The City Manager shall within five (5) business days of receipt of the recommendation of the City Code Enforcement Officer approve, disapprove, or approve in part the recommendation. If the city manager approves in part or disapproves the recommendation of the Code Enforcement Officer, written explanation outlining the reasons for approval in part or disapproval must be given.

Section 12. Permit Fees.

Fees charged by the City for tree cutting permits shall be established from time to time by duly enacted ordinances of the City of Sky Valley or by an appropriate resolution of the City of Sky Valley.

Section 13. Appeal.

- (1) Any applicant dissatisfied with the recommendation of the Code Enforcement Officer or the decision of the City Manager may appeal such recommendation or decision to the City Council of the City of Sky Valley provided such appeal shall be in writing and filed with the City Clerk within 10 business days of receipt of the decision of the City Manager.
- (2) If an appeal as provided for in the section filed with the City Clerk 14 days prior to the next regularly scheduled meeting of the City of Sky Valley such appeal shall be placed on the agenda for consideration at that meeting.
- (3) If the appeal is filed less than 14 days prior to the next regularly scheduled meeting of the City Council, the appeal will be placed on the next following agenda or it may be placed on an agenda for a called meeting if one is scheduled prior to the regular City Council meeting date.
- (4) The City Council, in considering an appeal, will hear from the applicant, the City Code Enforcement Officer, the City Manager, and other persons who may wish to provide information to the City Council. In making a decision, the City Council will be governed at all time by the criteria outlined in this ordinance.

Section 14. Penalties for Violation.

- (1) Except as otherwise provided herein, any violation of this ordinance shall subject the applicant and the contractor each to a fine not to exceed \$1,000 per violation and \$1,000 for each additional violation.
- (2) A violation will occur for each tree or protected native plant that is cut, pruned, topped, or removed in violation of this ordinance.
- (3) In addition to the above monetary fine any person, firm, corporation or other entity or agents thereof violating this ordinance will be required to replace each tree or protected native plant that is cut, pruned, topped, or removed in violation of this ordinance with two (2) hardwoods, softwoods or native flowering trees or shrubs as provided herein.
 - (a) Each tree/shrub must be:
 1. At a minimum, equivalent in size to a 15-gallon nursery grown tree; and
 2. Approved by the Code Enforcement Officer prior to planting.
- (4) A failure to remove any trees cut or debris from trees topped or trimmed within 14 days of completion will be considered a violation of this ordinance with a fine up to \$100 per day. The fine shall continue for each day the cut trees or debris remains on the property.
- (5) All citations issued and fines imposed herein can be imposed individually or jointly upon the Applicant, Property Owner and the Contractor depending on the situation.
- (6) If the City Code Enforcement Officer determines that a proper permit was not obtained or more vegetation was cut than what was included on the approved permit, the City Manager and Property Owner shall be notified.
 - (a) If both the City Code Enforcement Officer and City Manager agree that if proper procedures would have been followed, the application would have been approved, the Property Owner shall pay a penalty to the City equal to double the normal permit fee (as provided in the current fee schedule) for the total number of trees that were improperly pruned, cut or removed.
 - (b) The Property Owner shall have ten (10) days from the date of the notice to pay the penalty and avoid a citation.
- (7) No consideration will be given to a property owner's claim of dead, diseased or hazardous trees if those trees are cut and removed without a proper permit and without verification by the City.
- (8) In the case of an after-hours emergency which would involve the cutting of a tree, the City Police Department should be contacted to verify the hazard and make a report for the City Code Enforcement Officer.
- (9) In an emergency situation that has been verified by the Police, no penalty shall be assessed.

Section 15.

SHOULD ANY SECTION OR PROVISION OF THIS ORDINANCE BE DECLARED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR INVALID SUCH DECLARATION SHALL NOT AFFECT THE VALIDITY OF THE ORDINANCE AS A WHOLE OR ANY PART THEREOF OTHER THAN THE PART SO DECLARED TO BE UNCONSTITUTIONAL OR INVALID. ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED.

Section 16.

THIS ORDINANCE WILL BECOME EFFECTIVE UPON ADOPTION BY THE CITY COUNCIL AND APPROVED BY THE MAYOR AS PROVIDED BY THE CHARTER OF THE CITY OF SKY VALLEY.

It is so ordained and approved by vote of the City Council of the City of Sky Valley this _____ day of _____, 2017.

Approved:

Hughel Goodgame, Mayor

Milner Lively, Council President

Chip Durpo, Councilor

Attest:

Connie Larsen, Councilor

Ella Fast, City Clerk

Bob MacNair, Councilor

Ed Steil, Councilor

Read and introduced on the _____ day of _____, 2017.

Adopted on the _____ day of _____, 2017.