

Ordinance 03-09

**AN ORDINANCE TO ADOPT AND ESTABLISH POLICIES AND PROCEDURES GOVERNING CALLING AND CONDUCTING HEARINGS REQUIRED BY THE ZONING PROCEDURES ACT (O.C.G.A. §36-66-4, ET AL.).**

The Council of the City of Sky Valley hereby ordains:

- I. A NEW SECTION WILL BE ADDED TO THE CODE OF ORDINANCES OF THE CITY OF SKY VALLEY WHICH SHALL READ AS FOLLOWS:

**POLICIES AND PROCEDURES FOR PUBLIC HEARINGS FOR ZONING DECISION.**

**Section 1. Definitions**

A. *Zoning decision* means final legislative action by the City of Sky Valley which results in:

- (1) The adoption of a zoning ordinance;
- (2) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
- (3) The adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another;
- (4) The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality; or
- (5) The grant of a permit relating to a special use of property.

B. *Zoning ordinance* means an ordinance or resolution of the City of Sky Valley establishing procedures and zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The terms also includes the zoning map adopted in conjunction with a zoning ordinance which shows the zones and districts and zoning classifications of property therein.

**Section 2. Initiation of zoning amendments.**

A petition to amend the text of any zoning ordinance, zoning procedure, or the official zoning map of the City of Sky Valley may be initiated by the governing body, the planning commission, or any person, firm corporation or agency that owns property or an interest in property involved in a petition for amendment, subject to the provisions established herein.

**Section 3. Application requirements.**

An application shall be required for the following petitions: amendments to the official zoning map, conditional use permits, and variances.

1. An application form furnished by the City and zoning administrative officer; and

2. A legal description of the property to be considered in the application. The legal description shall be by metes and bounds unless an alternative legal description (such as a tax plat map) is accepted by the zoning administrator. Boundary surveys of the property should be submitted with the application whenever available; and
3. A letter of intent which describes general characteristics of the proposed development such as type and time frame of development, background information in support of such application, and any other information deemed pertinent by the applicant. For zoning map amendment applications, the letter of intent shall address the standards specified in Section 8 of this ordinance.
4. Applications for variances, conditional use permits and map amendment to commercial or industrial zoning districts shall require a site plan with all information specified. Unless otherwise noted in the approval, the site plan submitted in support of an approved application shall be considered a part of the approval and must be followed; and
5. A fee for said application as established by the governing body from time to time; and,
6. Applications which require action by the governing body shall also require disclosure of any conflicts of interest as specified in O.C.G.A. §36-67A-1 et seq., "Conflict of Interest in Zoning Actions".

Applicants shall submit 10 copies of any required site plans and letters of intent to the zoning administrator for distribution to the planning and zoning commission.

#### **Section 4. Site plan requirements.**

All required site plans shall, at a minimum, contain the following information:

1. Title of the proposed development and the name, address and telephone number of the property owner.
2. The name, address and telephone number of the architect, engineer or other designer of the proposed development.
3. Scale, date, north arrow, and general location map showing relationship of the site to street or natural landmarks.
4. Boundaries of the subject property, all existing and proposed streets, including right-of-way and street pavement widths; buildings; watercourses; parking and loading areas; and other physical characteristics of the property and proposed development.

5. Any wetlands or watercourses on or within 100 feet of the property. An official Wetlands delineation map is available in the City Clerk's office. All local, state and federal regulations apply to the disturbance of any wetlands within the City and any disturbance must be approved according to those regulations.

**Section 5. Criteria to consider for zoning decisions and zoning map amendments.**

The applicant, staff, planning commission and governing body should review an application for zoning map amendment with regard to the following criteria:

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
2. The extent to which property values are diminished by the particular zoning restrictions.
3. The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.
4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.
5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.
7. The zoning history of the subject property.
8. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.
9. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

The staff, planning commission and governing body may consider other factors deemed relevant before formulating recommendations and taking action on a particular request.

**Section 6. Planning commission recommendation.**

Prior to the public hearing held by the governing body, the planning and zoning commission shall hold a public hearing on all applications for amendment to the text of the zoning regulations, amendments to the official zoning map, conditional use applications and variances.

After completing its studies of the particular petition, the planning and zoning commission shall submit a recommended action in writing to the governing body or board of zoning appeals, as appropriate. The planning and zoning commission may submit any additional report it deems appropriate. The recommendations of the planning commission shall have an advisory effect only and shall not be binding on the governing body. Copies of the planning and zoning commissioner's recommendations and reports shall be made available to the applicant and other interested parties upon completion and distribution to the governing body and at the public hearing before the governing body.

The planning and zoning commission shall have 30 days within which to submit its recommendations. The governing body shall not take action on any of said applications, until it has received the recommendation of the planning and zoning commission within the specified time period. If the planning commission fails to submit a recommendation within the 30-day period, it shall be deemed to have approved the proposed application.

#### **Section 7. Conduct of public hearings.**

All public hearings regarding applications considered by the planning and zoning commission and governing body, to include appeals from decisions of the planning and zoning commission, shall be held in accordance with any procedures adopted and published by said body and, in addition, shall be governed by the following procedures:

1. The presiding officer shall open the hearing by stating the specific application being considered at the public hearing. At this time the presiding officer may summarize the public hearing procedures.
2. The zoning administrator or other staff may present a description of the proposed application, any applicable background material, his/her recommendation regarding action on said application as appropriate, and the recommendations and reports of the planning commission, as appropriate.
3. Persons who support the application will be asked to comment first. The petitioner may, upon recognition and upon statement of name and address, present and explain his application. The petitioner, or his designated agent, is expected to attend the public hearing unless written notice of hardship is received prior to such meeting. A time limitation may be imposed at the discretion of the presiding officer.
4. Persons who oppose the application or who have questions about the subject application will be asked to comment next. All interested parties after being recognized shall be afforded an opportunity to address the proposed application

by standing before the appropriate body and identifying their name, address and interest along with any comments on the proposed application. A time limitation may be imposed at the discretion of the chairman.

5. The petitioner shall have any opportunity to answer any questions raised by the public, for summary remarks and rebuttal concerning the proposed application.
6. Upon the completion of any comments from interested parties and the petitioner, the public hearing shall be completed and adjourned.
7. All public comments having been heard, the members of the body considering the application may discuss the request among themselves. During this discussion period, the members of the body may call on the petitioner or other interested parties to clarify points made previously or to answer questions. Said petitioner or interested parties may respond upon recognition. Additional questions from the general public may not be asked once the public hearing has been closed. Once the public hearing is closed, and a vote or other action is being considered, unrecognized responses from the petitioner shall be ruled out of order by the presiding officer.

**Section 8. Appeals to the city council.**

Appeals to the city council may be taken by any person aggrieved by any recommendation of the planning and zoning commission. Such appeals shall be taken within 30 days of any decision by the planning and zoning commission by filing with the city manager a notice of the appeal specifying the grounds thereof. The city manager shall forthwith transmit to the city council all papers constituting the record upon which the action appealed from was taken and a public hearing as described in Section 9 of this ordinance will be scheduled.

**Section 9. Action by the appropriate body.**

After the public hearing has been completed, the governing body may take action to approve or deny the request, refer the application to the planning and zoning commission for further study, or the governing body may table or defer action until a later meeting.

- II. 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.

III. 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 11th day of August, 2003.

Approved:

W. Delano Moore  
W. Delano Moore, Mayor

Steve Brett  
Steve Brett, Council President

Carolyn Burgess, Councilor

Sharon Jones  
Sharon Jones, Councilor

Attest:

Linda Wells  
Linda Wells, City Clerk

Howell Nunnally, Councilor

Britt Whitaker  
Britt Whitaker, Councilor

First reading approved by City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Second reading approved by City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

or

Second reading waived by unanimous vote  
of all council members present ✓