

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 contribute to real estate values throughout the community; and

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; and

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

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 Council has determined that the impact of any tree on historically designated property or adjacent right-of-way 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; 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. Definitions.

The following definitions are applicable to this ordinance:

- (1) Tree – Any tree that measures two (2) or more inches in diameter at Diameter at Breast Height (DBH).
- (2) Diameter at Breast Height (DBH) – The diameter of a tree measured around the tree at 4.5 feet above the ground divided by 3.14.
- (3) Native Plants/Shrubbery – Plants and shrubbery that are naturally occurring, either presently or historically in this area such as

Rhododendron, Mountain Laurel and Native Azaleas. A full list of protected Native Plants is available in the office of the city clerk.

- (4) Maintenance Pruning – Cutting away unwanted or damaged parts of a plant or tree to encourage new healthy growth.
- (5) Vista Pruning – A vista is defined as a “pleasing view, especially one seen through a long, narrow opening.” As it relates to tree care, vista pruning is essentially the pruning of trees to create a pleasing view, whether through a series of trees, or over a series of trees either by cutting selective window views within a tree’s canopy or by crown reduction pruning.
- (6) Crown Reduction Pruning – Sometimes called drop-crotch pruning, is most often used when a tree has grown too large for its permitted space. This method is preferred to topping because it results in a more natural appearance, increases the time before pruning is needed again, and minimizes stress to the tree. This procedure removes the end of a branch by cutting back to a “crotch” created by a lateral branch.
- (7) Topping – Inappropriate pruning technique to reduce tree height; cutting back a tree to buds, stubs, internodes, or laterals not large enough to assume the terminal role of the branch being cut.
- (8) Recommended Pruning Season – Late dormant season pruning is recommended. Avoid pruning once buds first start to expand until after the leaves are at their mature size. Pines should not be pruned during the warm months. Dormant season pruning during cold periods is best to prevent pruning-associated insect problems.
- (9) Specimen Trees – A historical, endangered, landmark, old, large hardwood (Oak, Hickory, Maple, Magnolia, Walnut, Sycamore, Elm) with DBH 25” or greater, large softwood (White Pine, Spruce, Cedar, Hemlock, Cypress) with DBH 25” or greater, and native flowering trees (Cherry, Dogwood, Redbud, Sourwood) DBH 10” or greater.
- (10) Mitigation and Replacement Trees – The replacement of healthy trees approved for removal based on a value of 25% Total DBH as determined by the Code Enforcement Officer. Replacement trees must be nursery grown and at least 2” in caliper. A Recommended Plant List is maintained in the Office of the City Clerk.
- (11) Invasive plants - An invasive plant has the ability to thrive and spread aggressively outside its natural range.
- (12) Footprint – Includes the area covered by any approved and permitted dwelling or commercial business plus 20 feet from the edges of the approved structure and 15 feet from driveways.
- (13) Tree Cutting Permit – A permit issued pursuant to the terms of this ordinance.
- (14) Street Trees – Trees that are planted in or adjacent to the right-of-way.
- (15) 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. The crests, summits, and ridge tops shall be

protected to the fullest extent possible without preventing reasonable economic use and enjoyment of the property

Section 2. Pruning

(1) Maintenance Pruning

- (a) Pruning trees/shrubs for the health of the plant is permissible without a permit.
- (b) No more than one-quarter of the foliage of a mature tree should be removed in any one growing season.
- (c) Maintenance Pruning does not include vista pruning or crown reduction.
- (d) Trees should never be rounded-over or hedged leaving a stub on the outside of a tree crown. Do not flush cut or leave a long stub. Always prune at the base of a twig or branch.

(2) Vista Pruning

There are two main techniques that are used when vista pruning. They are crown reduction and tree thinning by the cutting of selective windows. Vista pruning is permissible with a permit.

- (a) Thinning a tree by cutting of selective windows can be used when vista pruning to open up views through the trees. This is common when homeowners are looking to improve their views, without cutting down the trees that add both appeal and privacy to their property.
 1. The natural shape and elegance of the tree must be protected.
 2. The primary guideline for vista pruning by thinning is to provide the homeowner with a tasteful view using existing or new "windows" that occur within the tree canopy. Different views can be obtained from different parts of the home through canopy "windows" which lead one into continually changing views through the days and seasons.

(b) Crown Reduction Pruning

1. Crown Reduction Pruning (also known as drop-crotch pruning) may be used to enhance a view or reduce the size of a tree that has grown too large for its permitted space. This procedure removes the end of a branch by cutting back to a "crotch" created by a lateral branch.
2. For permit approval, there must be a strong side branch along the main stem that can assume control over the tree and remove portions of the tree above that point.
3. Trees should never be topped. Topping is an inappropriate pruning technique to reduce tree height. Topping destroys the branching control and shape of a tree. Instead of cutting the top, which leaves flat, squared-off stubs, use the proper drop-crotching method. This will allow the tree to react more quickly and effectively to damage.

(3) Proper Pruning Techniques

- (a) For any branch larger than your thumb, use a three-cut method of pruning. First, undercut the branch a few inches away from the trunk to prevent bark tearing, next move a short distance from the first cut farther out on the branch and remove the entire branch. Finally, start

the third pruning cut on the outside edge of the branch-bark ridge and cut through the branch to the outside edge of the collar swelling on the underside of the branch. Remove only the branch; do not damage the trunk.

- (b) Trees should never be rounded-over or hedged leaving a stub on the outside of a tree crown. Do not flush cut or leave a long stub. Always prune at the base of a twig or branch.
- (c) When possible, all pruning should take place during the Recommended Pruning Season. Late dormant season pruning is recommended. Avoid pruning once buds first start to expand until after the leaves are at their mature size. Pines should not be pruned during the warm months. Dormant season pruning during cold periods is best to prevent pruning-associated insect problems.

Section 3. 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 be cut and removed promptly from any lot by the property owner after such hazardous condition is first brought to the attention of the owner when it affects a neighboring property or the City street and a permit for such cutting and removal has been obtained through the City.
 - (b) Hazardous trees shall include those that are within the footprint of any approved and permitted dwelling or commercial business plus that area 20 feet from the edges of the approved structure and 15 feet from driveways.
 - (c) 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.
 - (d) If there is a discrepancy 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 4. Tree Removal – Thinning of density

- (1) Thinning new growth trees is the 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 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) Specimen trees will not be considered in an application for thinning.
- (5) No more than one half (1/2) of the stand density around any tree within the minimum spacing radius will be considered for removal.
- (6) Spacing criteria to be considered in evaluating a tree removal permit application for thinning.

DBH - Minimum spacing between trees of like or greater size

2 - 4 inches	15 feet
5 – 10 inches	20 feet
11 or more inches	30 feet

For example, the largest tree in a stand will be the controlling point. If you had a 15" DBH tree, a radius of 30 feet would be drawn around it. Up to one half (1/2) of the trees less than or equal to 15" would be considered for removal within that 30 feet.

- (7) Thinning permits will only be considered once every three (3) years on any parcel.

Section 5. Healthy Tree Removal

- (1) The removal of any other healthy tree 2" DBH or greater that does not meet the thinning criteria will be considered following the Code Enforcement Officer's review of the tree cutting permit application and site plan. He/she will determine what effect the intended removal of trees will have on the natural and historic resources of the area. 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;
 - (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;
 - (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 historically designated property or adjacent right-of-way;
 - (k) Whether the construction of structures or improvements on any property would necessitate the removal of any trees.
 - (l) The buffer left between the adjoining property owner and the road right-of-

- way.
- (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 will be equal to 25% of the total value DBH determined by the Code Enforcement Officer.
 - (b) Replacement trees must be nursery grown and at least 2" in caliper.
 - (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.
 - (d) Replacement or planting of street trees:
 1. Must be evaluated based on estimated size at full maturity;
 2. Must provide at least eight (8) feet of clearance at maturity for pedestrians and vehicles to avoid hazards created by low hanging tree branches;
 3. Must be planted at least twenty (20) feet from the edge of roadway'
 4. Must not impede safety or line-of-sight or interfere with lane of travel;
 5. 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;
 - (f) Replacement trees shall be planted on the same property unless otherwise approved by the Code Enforcement Officer.
 - (g) Replacement trees shall be reasonably maintained and attended for a period of not less than two (2) years to promote successful establishment thereof.
 - (h) If the replacement tree dies within two (2) years, it shall be replaced with a tree of equal value.
 - (i) If replacement trees are not planted within ninety (90) days, the property owner will be in violation of their permit and will be subject to penalties as provided herein.
 - (4) Trees within the Mountain Protection District will not be considered for removal that do not meet the criteria for thinning unless the owner has filed with the Tree Cutting Permit a plan for reforestation that has been developed by a registered forester or arborist.

Section 6. Native Shrubbery and Plants.

- (1) It shall be the policy of the City of Sky Valley that native shrubbery and plants such as mountain laurel, rhododendron, native azaleas, rare wildflowers, ferns, etc. shall be preserved insofar as practical and reasonable in order to retard surface runoff and soil erosion, and to protect their native species.
- (2) The removal of native shrubbery and plants shall be prohibited except 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 and plants. Selective removal permits will be evaluated based on the following criteria:
1. How removal will impact erosion in the area;
 2. How removal will impact water runoff;
 3. The density of native plants and shrubs on the lot;
 4. The contribution of the native plants and shrubs to the natural beauty of the area;
 5. The necessity, or lack thereof, to remove the native plants to allow reasonable economic use and enjoyment of the property;
 6. The impact of any native plants on historically designated property or adjacent right-of-way;
 7. The buffer left between the adjoining property owner and the road right-of-way.

Section 7. 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 8. Procedure for Issuance of a Tree Cutting Permit.

- (1) Any landowner in the City of Sky Valley wanting to vista prune, thin or reduce the crown or height of a tree, cut a tree 2" or more DBH, thin a stand of trees or remove a dead, diseased or hazardous tree 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 hired to 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 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 9. 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 10. 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 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 of the appeal at that meeting.
- (3) If the appeal is filed less than 14 days prior to the next regularly scheduled meeting of the City of Sky Valley, 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 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 11. 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. No less than 2 inches in diameter'
 2. Nursery grown in no less than a 15 gallon container or ball; and
 3. 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 12.

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 13.

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.