

ORDINANCE 03-15

AN ORDINANCE TO PROTECT THE MOUNTAINS OF SKY VALLEY, GEORGIA AND TO PROVIDE FOR FUTURE GROWTH AND DEVELOPMENT WITHIN THE PROTECTED MOUNTAINS

Whereas, the City of Sky Valley intends to protect the mountains of Sky Valley in a manner consistent with State of Georgia regulations; and

Whereas, notice of a public hearing for the adoption of this ordinance having been given as required by law; and

Whereas, a public hearing having been held as required by law,

THE COUNCIL OF THE CITY OF SKY VALLEY HEREBY ORDAINS:

I. The Code of Ordinances of the City of Sky Valley is hereby amended to add a new ordinance which shall read as follows:

Section 1. Purpose

The mountains of Georgia are characterized by steep slopes, thin soils, and, because of the natural stresses placed on such environments, they require special protection. Land-disturbing activity on the high-elevation, steep-slope mountains of Georgia potentially threatens the public health, safety, welfare, and economic progress of the state. Such land-disturbing activity:

1. may endanger the quality of surface water by increasing erosion and stream sedimentation;
2. has the potential to induce landslides;
3. has the potential to adversely affect ground water due to the difficulty in providing proper sewage disposal in areas of steep slope and high elevation;
4. may damage the habitat for some species of wildlife (both plants and animals); and
5. may detract from the mountains' scenic and natural beauty which is vital to the recreation and tourism industry of North Georgia.

The purpose of this ordinance is to establish measures to guide future growth and development in the areas within protected mountains as defined herein.

Section 2. Definitions

- A. Hazardous waste means any solid waste which has been defined as a hazardous waste pursuant to the Georgia Hazardous Waste Management Act as the same exists or as amended.
- B. Land-disturbing activity means any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land-disturbing activity shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep,

repairs, additions or minor modifications to a single-family dwelling, and the cutting of firewood for personal use.

- C. Multi-family dwelling means a structure that contains multiple dwelling units.
- D. Plat map means a large-scale map that shows the location of tracts of land within a jurisdiction, and the tax status of such tracts.
- E. Protected mountain means all land area 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, and shall include the crests, summits, and ridge tops which lie at elevations higher than any such area.
- F. Quadrangle map means the most recently published U.S. Geological Survey 7.5-minute topographic map prepared at a scale of 1:24,000.
- G. Reforestation plan means a plan, prepared by a registered forester, for replacing of harvested timber by replanting (as described in the Recommended Best Management Practices for Forestry in Georgia, published by the Georgia Forestry Commission) or by natural regenerative processes (such as coppicing, seed trees, etc.).
- H. Sensitive natural area means any area, as identified now or hereafter by the Department of Natural Resources, which contains one or more of the following:
 - 1. Habitat, including nesting sites, occupied by rare or endangered species;
 - 2. Rare or exemplary natural communities;
 - 3. Significant landforms, hydroforms, or geological features; or
 - 4. Other areas so designated by the Department of Natural Resources; and which is sensitive or vulnerable to physical or biological alteration.
- I. Single-family dwelling means a dwelling structure that is designed for the use of one family as defined by the zoning ordinance of the City of Sky Valley.

Section 3. Establishment of a Protected Mountain District

The Mountain Protection District is hereby designated and shall comprise 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 district shall also include the crests, summits, and ridge tops which lie at elevations higher than any such area. This district shall be further defined and delineated on a Mountain Protection District Map. The Map is hereby incorporated into and made a part of this ordinance by reference.

Section 4. Protection Criteria

- A. Proposed land-disturbing activity shall meet all applicable requirements of the "Erosion and Sedimentation Act of 1975 as amended", and all applicable local ordinances on soil erosion and sedimentation control.
- B. Where septic tanks are to be used for individual sewage disposal, the proposed land-disturbing activity shall meet all applicable requirements imposed by the local governing authority or any regulatory agency.
- C. Where one or more wells are to be used for individuals water supply, the proposed land-disturbing activity shall meet all applicable requirements of the "Water Well Standards Act of 1985"; the requirements of the rules and regulations of the Department of Human Resources regarding individual or nonpublic wells.
- D. If sewage treatment is to be provided by any means other individual septic tanks, the sewage treatment shall meet all applicable requirements of the "Georgia Water Quality Control Act".
- E. The water supply system is to be provided, the water supply system shall meet all applicable requirements of the "Georgia Safe Drinking Water Act of 1977".
- F. Single-family dwellings shall not be constructed at a density of more than one per acre and no such acre shall be less than 100-feet wide at the building site. This density restriction shall not apply to:
 - 1. Any lot of less than one acre, if such a lot was, as of the date of the adoption of this ordinance, owned and described as a discrete parcel of real property according to the instrument of title of the person or persons owning the lot on said date.
 - 2. Any lot of less than one acre, if such a lot was, as of the date of the adoption of this ordinance, shown as a discrete parcel of real property on a plat of survey properly recorded in the real property records of the clerk of superior court by the person or persons owning the lot on said date.
 - 3. Any land, or part of any land, which was contained in or subject to any master plan, planned unit development plan, special approved development plan, or any other development plan if such plan was filed with and approved by the local governing authority prior to the date of the adoption of this ordinance, pursuant to a duly enacted planning and zoning ordinance; provided further, that any such planning and zoning ordinance must have provided for rules and procedures and governed lot sizes, density, types of buildings, and other limitations usually associated with the implementation of local zoning ordinances.
- G. Multi-family dwellings, in the absence of a public water supply and sewerage system, shall not be constructed at a density of more than

four dwelling units per acre. If there is a public water supply and sewage system available to this property, then the density may be increased to no more than six dwelling units per acre. Regardless of which type of system, no such acre shall be less than 100-feet wide at the building site.

- H. Structures shall not extend more than 40-feet, as measured from the highest point at which the foundation of such structure intersects the ground, above the uppermost point of the crest, summit, or ridge top of the protected mountain on which the structure is constructed. This height restriction shall not apply to water, radio, or television towers; to any equipment for the transmission of electricity, to minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires; or to windmills.
- I. Any application for a building permit to construct a commercial structure shall contain a detailed landscaping plan. Such landscaping plan:
 - 1. Shall identify all trees which are to be removed that exceed eight inches in diameter as measured at a point on the tree four and one-half feet above the surface of the ground; and
 - 2. Shall contain a plan for replacement of any such trees that are removed.
 - 3. Shall include a topographical survey of the project site and an assessment of the effect that the project will have on the environment of the protected mountain after the project has been completed and is in operation.
 - 4. Nothing in Section IV.I. shall be construed to require commercial structures to comply with the density provision of Sections IV.F. and IV.G. cited above.
- J. No person engaging in land-disturbing activity shall remove more than 50 percent of the existing trees that exceed eight inches in diameter as measured at a point on such a tree four and one-half feet above the surface of the ground, unless such person has filed with the application a plan of reforestation developed by a registered forester
- K. Handling areas for the receiving and storage of hazardous waste are prohibited from protected mountains.
- L. Hazardous waste or solid waste disposal facilities are prohibited from protected mountains. Disposal facilities permitted by the Environmental Protection Division prior to the promulgation of a Mountain Protection Plan shall be exempt from this criterion.

M. All roads on protected mountains shall be designed and constructed to minimize the potential for landslides, erosion, and runoff.

Section 5. Exemptions

A. Agriculture and forestry on protected mountains provided that:

1. Agriculture and forestry activities are consistent with the best management practices established by the Georgia Forestry Commission or the Georgia Soil and Water Conservation Commission;
2. Agricultural and forestry activities are consistent with all state and federal laws, and all regulation promulgated by the Georgia Department of Agriculture.

B. Mining activity on protected mountains if such activity is permitted by the Department of Natural Resources.

Section 6. Administration and Enforcement Procedures

This ordinance shall be enforced as provided by the Code of Ordinances of Sky Valley and by the Charter of the City of Sky Valley.

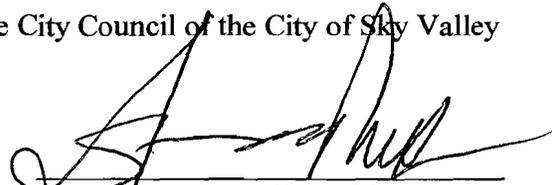
II. SHOULD ANY SECTION OR PROVISION OF THIS ORDINANCE BE DECLARED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR INVALID SUCH DECLARATION SHALL NOT AFFECT THE VALIDITY OF THE ORDINANCE AS A WHOLE OR ANY PART THEREOF OTHER THAN THE PART SO DECLARED TO BE UNCONSTITUTIONAL OR INVALID. ALL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

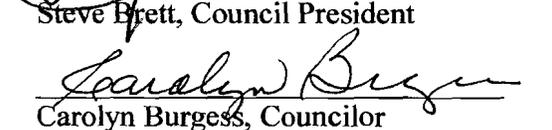
III. THIS ORDINANCE WILL BECOME EFFECTIVE UPON ADOPTION BY THE CITY COUNCIL AND APPROVED BY THE MAYOR AS PROVIDED BY THE CHARTER OF THE CITY OF SKY VALLEY.

It is so ordained and approved by vote of the City Council of the City of Sky Valley this 10th day of November, 2003.

Approved:


W. Delano Moore, Mayor


Steve Brett, Council President


Carolyn Burgess, Councilor