

**ORDINANCE NO. 12-01**

**AN ORDINANCE TO REPEAL SKY VALLEY ORDINANCES 09-11 AND 05-03  
AND TO ESTABLISH AN ORDINANCE FOR  
PROTECTION OF TREES WITHIN THE CITY LIMITS OF SKY VALLEY**

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 concern it is in the public interest of the citizens of Sky Valley to protect trees by imposing certain restrictions on cutting, removing, trimming, and topping trees.

The Council of the City of Sky Valley hereby ordains:

I. Sky Valley Ordinance Nos. 09-11 and 05-03 and any other ordinance regulating the cutting, topping, trimming, or removal of trees is hereby repealed and a new ordinance is enacted to read as follows:

Section 1. Definitions.

a. The following definitions are applicable to this ordinance:

- (1) Tree – Any tree exceeding eight (8) inches in diameter (25 inches or less in circumference) at a point eighteen (18) inches above the ground.
- (2) Top/Topping – Reducing the height of any tree.
- (3) Trim/Trimming – Removing any limbs that are twelve (12) feet above the ground.
- (4) Footprint – Includes the area covered by any approved building or structure plus 15 feet from the edges of the approved building or structure. (The additional 15 feet applies only to approved buildings or structures.) The footprint for the purposes of this ordinance also includes the specific area approved for the installation of a driveway, parking area, septic tank and drain field.
- (5) Drain Field and Septic Tank – Septic system and drain field to be used must be identified and approved by the Building Inspector prior to permitting.
- (6) Specimen Tree – A tree defined as historical or endangered.
- (7) Tree Cutting Permit – A permit issued pursuant to the terms of this ordinance.

## Section 2. Tree Trimming.

Any landowner desiring to cut, top, trim, or remove any tree must obtain a tree cutting permit. Trimming of a tree up to twelve (12) feet from the ground level does not require a permit.

## Section 3. Criteria for Evaluating Applications for Tree Cutting Permit.

In evaluating applications for a tree cutting permit the city marshal, city manager, and city council may consider, but not be limited to, the following criteria:

1. The number of trees to be cut, topped, or trimmed.
2. The value of the trees to be cut, topped, or trimmed.
3. The condition of the trees to be cut, topped, or trimmed, with consideration given to dead, diseased, hazardous or damaged trees.
4. The environmental impact of cutting, topping, or trimming on the applicant's land and on adjacent lands. The impact on streams, soil, erosion, and surrounding vegetation is a part of the environmental impact.
5. Aesthetics for the surrounding property.
6. The applicant's desires.
7. Any landscape plan if submitted.
8. Public safety considerations.
9. Other federal, state, or local ordinances or regulations.
10. Determination if a tree is a specimen tree.

## Section 4. Procedure for Issuance of a Tree Cutting Permit.

- a. Any landowner in the City of Sky Valley wanting to cut, trim, top, or remove a tree, or 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.

1. The application should:

(a) Identify by location on a plat or sketch each tree to be cut, topped, trimmed, or removed. In order to identify tree by location the applicant must, prior to submitting the application, either mark each tree by placing a colored ribbon around the circumference of the tree at approximately 3 to 4 feet off the ground or arrange to meet with the City Marshal and the Contractor (unless waived by the City Marshal) to go over the proposed application. The applicant must designate on the plat or sketch whether each tree is to be cut, trimmed, or topped and show where each tree is in correlation to the property line.

(b) Describe the purpose for cutting, topping, trimming, or removing the tree, or trees.

(c) Be accompanied where required with the application fee.

(d) Identify the person/business entity who will cut, top, and remove the tree including their Insurance information. 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.

(e) Define the time for cutting, topping, trimming, and for removal of trees or debris.

(f) Be signed by the Applicant, Property Owner and the Contractor.

2. Cutting, topping, trimming 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.

3. The applicant must certify familiarity with the terms of this ordinance and the applicant must certify the person or business entity actually cutting, trimming, topping, and removing tree is familiar with the ordinance.

(a) The City Marshal 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 consider Section 2 of the ordinance and make a written recommendation to the city manager that a permit be issued or denied.

(b) The city manager shall within five (5) business days of receipt of the recommendation of the City Marshal approve, disapprove, or approve in part the recommendation of the City Marshal. If the city manager



approves in part or disapproves the recommendation of the City Marshal, written explanation outlining the reasons for approval in part or disapproval must be given.

#### Section 5. Appeal.

(a) Any applicant dissatisfied with the recommendation of the city marshal/building inspector or the decision of the city manager may appeal such recommendation or decision to the city council if 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.

(b) If an appeal as provided in the section filed with the city clerk 7 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. If the appeal is filed 6 days or less 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.

(c) The city council in considering an appeal will hear from the applicant, the city marshal, 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 6. Prohibition.

In no instance will more than twenty-five percent (25%) of the trees remaining outside of the footprint be cut and removed unless approved by the city council and conditioned upon an approved landscape plan prepared by a landscape architect or landscape designer. Further, no certificate of occupancy will be granted until the approved landscape plan has been fully completed.

#### Section 7. New Construction

If the building location is changed from the original footprint submitted to the building inspector after trees have been cut, topped, or trimmed, it will be considered a violation of this ordinance. Violations of this section will require the property owner to replace the number of trees cut per the same criteria required in Section 9(b). In addition, the property owner must also obtain a new permit to cut, top, or trim any additional trees.

#### Section 8. Permit Fees.

All trees that are cut, topped or trimmed as defined herein shall require a permit issued by the City of Sky Valley. Fees charged by the City for cutting, topping, trimming, and removing dead, diseased or hazardous trees 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 9. Penalties for Violation.


- a. Except as otherwise provided herein, any violation of this ordinance shall subject the applicant and contractor to a fine not to exceed \$1,000 per violation and \$1,000 for each additional violation. A violation will occur for each tree cut, topped, or trimmed in violation of this ordinance.
- b. Replanting: 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 cut, topped, or trimmed or removed in violation of this ordinance with 2 hardwood trees. Each hardwood tree must be:
  - (1) No shorter than 10 feet high measured from the top of the ball to the tip;
  - (2) No less than 2 inches in diameter at a point one foot above the top of the ball;
  - (3) Nursery grown in no less than a 15 gallon container or ball; and
  - (4) The trees to be replanted must be approved by the city marshal or city manager prior to planting.
- c. A failure to remove any trees cut or debris from trees topped or trimmed within 14 days of completion will be considered a violation with a fine up to \$100 per day. The fine shall continue for each day the cut trees or debris remains on the property.
- d. 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.
- e. If the City Marshal determines that a proper permit was not obtained or more trees were cut than what was included on the approved permit, the City Manager and Property Owner shall be notified. If both the City Marshal 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 topped, trimmed or cut. The Property Owner shall have ten (10) days from the date of the notice to pay the penalty and avoid a citation.
- f. 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. 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 Marshal. In an emergency situation that has been verified by the Police, no penalty shall be assessed.

- 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 19<sup>th</sup> day of June, 2012.

Approved:

  
James S. Martindale, Mayor

  
Neil Howard, Council President

  
Richard Boyle, Councilor

Attest:

  
Mandi Cantrell, City Clerk

\_\_\_\_\_  
Bob Larsen, Councilor

  
Maureen Platt, Councilor

\_\_\_\_\_  
David Whatley, Councilor

Read and introduced on the 19<sup>th</sup> day of June, 2012.

Adopted on the 19<sup>th</sup> day of June, 2012.