

**MINUTES OF THE CITY OF SKY VALLEY REGULAR COUNCIL MEETING THAT WAS HELD ON A TUESDAY, FEBRUARY 17, 2026, AT 10:00 AM; LOCATION WAS AT 3608 HWY 246 (CITY HALL) & VIA TELECONFERENCE (ZOOM), SKY VALLEY, GEORGIA**

**MEMBERS PRESENT:** Mayor Cotton-Orr, Councilors Allred, Pence, Price, Beasley, and Curtis

**STAFF PRESENT:** City Manager Streetman, City Attorney Kidd, City Clerk Fleming, Communication Specialist Van Camp, Building Inspector Pyburn, Lieutenant Edwards, Sergeant Maloney, Police Chief Baumes, Public Works Superintendent Shope, and Water Coordinator English

**1. Call to Order**

Mayor Cotton-Orr called the meeting to order at 10:06 a.m.

**2. Invocation/Pledge of Allegiance**

Council President led the Invocation/Pledge of Allegiance.

**3. Approval of Minutes**

**January 20, 2026 - Regular Council Meeting**

Council President Pence made a motion to approve the minutes as written, seconded by Councilor Price, unanimously approved.

**4. Adoption of Agenda**

Councilor Curtis made a motion to adopt the agenda as presented, seconded by Council President Pence, unanimously approved.

**5. Public Forum and General Comments**

Jerri Smith, resident of Sky Valley, read parts of two letters that were presented to Mayor and Council. Letters will be attached for the record which are to address her concerns on how the P&Z amendment is being handled along with the Committee member appointees.

Subject of first letter: Legal Requirements for Amending Planning & Zoning Commission Residency Qualifications. Statement of Purpose – The City Council is currently considering a change to allow nonresidents to serve on the Planning and Zoning Commission. While the act of appointing an individual is an administrative function, changing the legal qualification for that office, which are currently embedded in the Sky Valley Zoning Ordinance, is a legislative act governed by the Georgia Zoning Procedures Law (ZPL). Ms. Smith went on to give the state’s statutes concerning Statutory Definition of a Zoning Decision” – O.C.G.A. § 36-66-3(4)(B). “Because Sky Valley’s residency requirements are part of the Zoning Ordinance test, any modification is legally a zoning decision, not an administrative personnel matter. “Mandatory Procedural Requirements” – O.C.G.A. § 36-66-4, the City must complete the following to ensure the amendment is legally valid (Public Hearing, Newspaper Notice, Due Process). “The Risk of Non-Compliance” – In Georgia, courts require “strict compliance” with ZPL.

Recommendation – To protect the City from litigation, it is recommended that the council direct the City Attorney to draft a formal “Text Amendment to the Zoning Ordinance” and follow the standard ZPL notification and public hearing process before making any nonresident appointments.

Second Letter:

Subject – Legal insufficiency of Resolutions for Committees regarding residency qualifications for “citizens at large”. Purpose – This memorandum serves as a formal objection to the recent resolution attempting to redefine the “citizen at large” qualification for Committee and Board Appointments to include “part-time residents” or “property owners”. Under Georgia law, this change is legally ineffective, procedurally flawed, and subjects the City to significant litigation risk. Legal Analysis –

Violation of the Georgia Municipal Home Rule Act, Failure to Comply with Filing Requirements, Conflict with General Law on "Residency", Violation of the Zoning Procedures Law (ZPL).

She concluded by requesting the Council to study her letters, and to do the right thing.

**6. Mayoral/Council Remarks**

Mayor Cotton-Orr thanked the City Hall staff, Public Works, and Police Department for all their work during the last four weeks of winter weather. Remembering the Rice Family in prayers as they lost their home recently to a fire. Grateful that Officer Williams acted so swiftly to help them get them out before the house was consumed. Two long-term residents of Sky Valley have passed away: David Spears and Wallace Whiten. She expressed her condolences to the families.

Councilor Curtis requested that another Work Session be scheduled during the first week of March to further the discussion of the proposed septic to sewer project.

Councilor Beasley expressed her condolences to the families of David Spears and Wallace Whiten. She thanked the staff at City Hall, Road Crews and Police for all the work performed during the winter weather events. She expressed her disappointment in the current administration as she anticipated much more than what is currently happening. Emails asking for additional information have been ignored. Having to submit open records requests to obtain information. She cannot attend any of the Committee meetings as a bystander as she would create a Council quorum. She will continue to push for more meetings, discussions, and actions.

**7. City Manager Report**

City Manager Streetman also thanked all that helped during the winter weather events as he stated that he did some snow plowing himself. He thanked all the departments that were involved with the recent housefire. Some of the public work's staff were called in due to water flow issues. He thanked the police department for their aid, especially Officer Williams as he suffered smoke inhalation. He used this time to remind residents about the use of smoke detectors.

BMS pay is up and running, which will give residents the opportunity to receive e-bills, give payment options, and also the ability to view their balance at any time. If your short-term-rental license is up for renewal or signing up to be in compliance, call City Hall. Property taxes were due February 2, 2026 and about 90 % have been collected. The City is "on par" with the 2026 budget as we are currently at 13%. We have received about \$20,000 in SPLOST funding this year. The TSPLOST funding will start in June. The spending plan for the TSPLOST funds, will be presented soon. GDOT stated that Governor Kemp has passed another supplemental LMIG funding, third year in a row. The funding usually brings in an additional \$47,000 to \$50,000 and doesn't require a match. Newly elected training will take place next week in Athens.

City Attorney Kidd addressed Councilor Beasley's concerns. He stated that all City documents were open to her and that she did not have to submit an open records request to obtain the information. He advised to request the information through either Mayor Cotton-Orr or City Manager Streetman which should be available within three to four business days. He also addressed the nonresponse to emails. He stated that he was copied on some emails but the email wasn't addressed to him so he didn't respond as the previous administration had asked him to do so in the past. Attending Committee meetings were discussed and why quorum cannot be present. The third council member can be present but only as a spectator and it has to be noted that they were there as such and will not be participating.

Councilor Beasley made a motion to approve a third Councilmember being allowed to attend Committee meetings as a spectator with proper advertisement, seconded by Councilor Curtis. Council President Pence stated that the meetings are recorded and can be watch after the meetings. Councilor Allred stated that he wouldn't be attending any other Committee meetings that he was not appointed to. Councilor Curtis stated that there have been past meetings that he would like to have

attended but was unable to. Mayor Cotton-Orr called for the vote. Councilors Curtis and Beasley, yea, Councilors Price, Pence, and Allred, nay. The motion failed 3-2.

## **8. Departmental Reports**

Public Works Superintendent Shope, thanked the residents that stayed off the roads during the snow event as it made their job so much easier. He stated that the communication between the departments were excellent. Time Shares of Sky Valley offered accommodations to the staff if needed. There will be a Public Works, meet and greet on Friday, 22<sup>nd</sup> of May, City Pavillion at 12:00 p.m.

Building Inspector Pyburn, stated that in January he issued a \$75 citation. There are currently three new homes under construction. Several lots have been sold on LaBelle. In January, 11 building permits were issued along with four tree permits.

Police Chief Baumes stated that on February 9<sup>th</sup> the First Responders were called to Wallace Whiten's residence but unfortunately, he did not make it. Condolences to the family. There is a new officer that will begin his employment with the City on February 18. He will be working the night shift. Training is continuing at the Fire Department and he recognized Lieutenant Edwards and Sergeant Maloney. He stated that he will be talking more about the housefire and Office Williams at the next scheduled meeting.

Fire Chief Sigler shared his condolences for the Spear's family as David Spears was an active part of the fire department. He stated that people have asked for more information on the housefire, but his department cannot give out that information. The only thing he can say is that it has been ruled accidental. He thanked the Police Department for their assistance. The Fire Department recently had their annual budget meeting, and it was too late to reduce the proposed agreement amount as the City had already budgeted the asking amount, \$174,778.84. He stated that he would like to see the amount decreased for next year so this will be discussed in December.

## **9. Committee Reports**

Finance and Administration Committee Chair, Council President Pence, stated they had met on February 10<sup>th</sup>, for an hour and a half. All members were present, and the guest speaker was State Representative Victor Anderson, which discussed current property tax proposals. The Committee reviewed and discussed the seven duties of the Committee and the next scheduled meeting will be, May 20<sup>th</sup>.

## **NEW BUSINESS**

### **10. Consider various Mayoral Committee member appointees**

There were two Resolutions and member appointees discussed:

Public Safety and Emergency Preparedness Advisory Committee with the proposed member appointees: Chair – Councilor Allred; Members Councilor Beasley, Joseph Bowler, Kennon McCollum, Leta Thomas, De Gahrng, and Drea Toretti.

Councilor Allred made a motion to approve the Resolution along with the member appointees, seconded by Councilor Price, unanimously approved.

Public Works and Facilities Advisory Committee with the proposed member appointees: Chair – Councilor Price; Members Councilor Curtis, Dick Grier Lovett Bennett, and Dave Hershel.

Councilor Curtis made a motion to approve the Resolution along with the member appointees, seconded by Councilor Price. Councilor Beasley stated that she was opposed to this Committee as it is redundant along with the rest of the Committees except for the Public Safety and Emergency Preparedness Committee. Mayor Cotton-Orr called for the vote. Councilors Allred, Pence, Price, and Councilor Curtis, yea, Councilor Beasley, nay. The motion carried 4-1.

The Committees will have Ex Officio Members. Mayor Cotton-Orr will serve on all Committees, along with City Manager Streetman. Also duly designated staff members will serve as well.

**11. Consider approval of Sky Valley/Scaly Mountain Volunteer Fire and Rescue Annual Agreement**

City Manager Streetman stated that the annual agreement is for \$174,778.84 which is 1.5 mils of the 2025 property tax digest. The City will make quarterly payments of approximately \$43,000.

Councilor Beasley made a motion to approve the \$174,778.84 agreement, seconded by Councilor Curtis. Councilor Curtis thanked Fire Chief Sigler for stating that the department will be reducing the annual amount for next year. Sky Valley is not privy to the budget along with not knowing what the other contributions are but he appreciates all that they do for Sky Valley. Councilor Beasley stated that the fire department is priceless. Mayor Cotton-Orr stated that she appreciates the comment of coming back with a lower amount for next year. She called for the vote and it was unanimously approved.

**12. Consider amendment to the Sky Valley Zoning Ordinance (1<sup>st</sup> reading & introduction)**

City Attorney Kidd stated that he was asked to clarify the eligibility for section 15-01, "whether part-time or full-time. He said that typically a Zoning Ordinance change would require public hearings, and advertising in local paper for personal property but this amendment would not change any personal property. Administrative and personnel would fall outside of a Zoning decision. Section 15-01 deals exclusively with the creation and appointment of members and it does not regulate any use of land so therefore does not affect any zoning regulations. He stated that he has done research concerning administrative and personnel decisions with zoning and feels confident with his decision to move forward with this amendment without going through the special procedural rules. He addressed Ms. Smith's letter stating that the decision to appoint Committee members is based on "citizens at large" and in changing that would be changing the Charter. City Attorney Kidd stated that "citizens at large" is not defined in the Charter, nor State Law, nor Case Law. It does say in the Charter that the Mayor and Council members are elected as "citizens at large" rather than by district, so therefore the members could conceivably live in the same condominium association and would not have to live in different districts of the City. The Charter also does not specify full-time or part-time residency and this Council has the right to appoint part-time residents to the Committees to use their expertise. This amendment is just for clarification purposes only. Domicile was also mentioned in the letter and he explained and gave examples of how to determine domicile and how hard it would be to determine if the resident owned several properties. Ultimately, the Council has the right to decide who can serve on the Committees.

Councilor Allred asked if the amendment specifically addresses being a property owner and City Attorney stated no as they could be a renter. Councilor Beasley asked why make a change now to a long-standing Ordinance as there has only been two changes made since 2005. At the end of 2004 Merrill Trust purchased and closed down the ski slopes and invested four million in the golf course over a two-year period. He also proposed that an urban village along with condominiums to be built in place of the ski area. She viewed the minutes of the City Council and the minutes of the October 17, 2005 meeting were missing which were to discuss the plans of Harrison Merrill. However, the minutes of November 14<sup>th</sup> show that the changes were passed addressing the welfare, congestion, and urban spread in Sky Valley, also 15-01 was discussed and passed at that time. The only other changes since then, were solar panels and a updated tree ordinance. She stated the elected Council positions, which were compared to, had to be full-time residents with domicile and she feels the Committee members should be the same. She references two emails that were received from Mayor Cotton-Orr discussing the past appointee Jim Phelps on the Planning and Zoning Committee and to accommodate his future position with the Committee. Councilor Beasley feels that this is the sole driver for amending the Zoning Ordinance. She also thinks this change could result in a Committee that is filled with part-time only residents with no voting power. She stated that the whole Planning and Zoning Ordinance needs to be reviewed and updated.

President Councilor Pence stated that there was more to the emails from the Mayor than what was mentioned such as transparency, expertise, and part-time taxpayers having a say. A discussion ensues between President Councilor Pence and Councilor Beasley concerning Jim Phelps' position on two Committees and his part in the recent campaigning, being "politically friendly". Councilor Curtis stated that Sky Valley would benefit from not having just full-time residents for the expertise but part-time residents as well. Getting advice and opinions from all is wise and he trusts the nominations of the Mayor. Mayor Cotton-Orr stated that she just proposes but the Council disposes. The Council has the right to refuse any nominations. Councilor Allred stated that the Council would be wise to listen to the opinions of all the residents of Sky Valley.

**13. Consider proclamation for Arbor Day to be celebrated on Friday February 20, 2026**

City Manager Streetman read the proclamation and stated that a cherry tree had been selected for the Council to plant. This is the 10<sup>th</sup> year of the City celebrating Arbor Day and signs have been received showing this achievement. Signs will also be placed at the overlook and waterfall stating to leave nothing behind other than footprints.

Councilor Price made a motion to approve the Arbor Day Proclamation, seconded by Councilor Curtis, unanimously approved.

**OTHER BUSINESS**

**14. Executive Session**

None

**15. Adjournment**

There being no further business to come before the Mayor and Council, Councilor Beasley made a motion to adjourn, seconded by Councilor Curtis, unanimously approved.

The meeting adjourned at 11:45 a.m.

Respectfully submitted:



Benita Cotton-Orr, Mayor

Attest:



Karen Fleming, City Clerk

Sky Valley Mayor, City Council, and City Clerk

From: Jerri Smith, 193 Pleasant Mountain Drive

Date: February 17, 2026

Subject: **Legal Requirements for Amending Planning & Zoning Commission Residency Qualifications**

### **Statement of Purpose**

The City Council is currently considering a change to allow nonresidents to serve on the Planning and Zoning Commission. While the act of *appointing* an individual is an administrative function, changing the *legal qualifications* for that office—which are currently embedded in the Sky Valley Zoning Ordinance—is a legislative act governed by the **Georgia Zoning Procedures Law (ZPL)**.

#### **1. Statutory Definition of a "Zoning Decision"**

Under **O.C.G.A. § 36-66-3(4)(B)**, a "zoning decision" is defined as any final legislative action that results in:

*"The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance."*

Because Sky Valley's residency requirements are part of the Zoning Ordinance text, any modification is legally a "zoning decision," not an administrative personnel matter.

#### **2. Mandatory Procedural Requirements**

Per **O.C.G.A. § 36-66-4**, the city must complete the following to ensure the amendment is legally valid:

- **Public Hearing:** A formal hearing must be held before the city council or planning commission.
- **Newspaper Notice:** Notice of the hearing must be published in the city's legal organ (the newspaper) at least **15 but not more than 45 days** prior to the hearing.
- **Due Process:** The hearing must provide at least 10 minutes for both proponents and opponents to speak.

#### **3. The Risk of Non-Compliance**

In Georgia, courts require **"strict compliance"** with the ZPL. If the city skips these steps:

- The amendment will be **"void ab initio"** (legally dead from the start).
- The board would be considered **"illegally constituted,"** meaning every variance, site plan, or zoning recommendation they make could be challenged and overturned in Superior Court.
- This creates significant liability for the city and uncertainty for property owners who rely on the commission's decisions.

### **Recommendation**

To protect the city from litigation, it is recommended that the council direct the City Attorney to draft a formal **Text Amendment to the Zoning Ordinance** and follow the standard ZPL notification and public hearing process before making any nonresident appointments.

## **Legal Requirements for Amending Zoning Board Qualifications**

### **Official Code of Georgia Annotated § 36-66-3(4)**

**(4) "Zoning decision" means final legislative action by a local government which results in:**

**(A)** The adoption of a zoning ordinance;

**(B)** The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;

**(C)** The adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another;

**(D)** The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality; or

**(E)** The grant of a permit relating to a special use of property.

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### **Legal Authorities: Mandate for Zoning Procedures (ZPL)**

- **Little v. City of Lawrenceville, 272 Ga. 340 (2000)**
  - **The Rule:** The Georgia Supreme Court held that the **Zoning Procedures Law (ZPL)** is a "general law" that **preempts** local city charters and administrative powers.
  - **Application:** The City Council cannot claim "administrative authority" to bypass the ZPL if the action involves changing the text of the Zoning Ordinance.
- **City of Roswell v. Outdoor Systems, Inc., 274 Ga. 130 (2001)**
  - **The Rule:** Confirmed that a "zoning decision" includes any legislative action that results in an **amendment to the text** of a zoning ordinance.
  - **Application:** Because Sky Valley's commission qualifications are in the Zoning Ordinance text, any change to residency is legally a "zoning decision" requiring a 15-45 day newspaper notice and a public hearing.
- **McClure v. Davidson, 258 Ga. 706 (1988)**
  - **The Rule:** Georgia courts require "**strict compliance**" with the ZPL. Any zoning action taken without following the exact notice and hearing requirements is **legally void**.
  - **Application:** If the council skips the ZPL process, the nonresident appointment is "void from the start," leaving the city open to lawsuits over every decision that board member makes.
- **Schumacher v. City of Roswell, 301 Ga. 635 (2017)**
  - **The Rule:** Distinguished between specific "adjudicative" acts and "**legislative**" **text amendments**.
  - **Application:** Changing the eligibility rules for a board is a legislative act that sets a new city-wide standard. This reinforces that the change is a "**text amendment**" under **O.C.G.A. § 36-66-3(4)**.
- **Tilley Properties, Inc. v. Bartow County, 273 Ga. 153 (2000)**
  - **The Rule:** Reaffirmed that if a local government fails to follow the ZPL notice requirements, the resulting ordinance is **invalid and unenforceable**.
  - **Application:** This serves as a warning that the city's attempt to amend the ordinance without the correct procedure is invalid.

**Compliance with O.C.G.A. § 36-66 (Zoning Procedures Law) for Residency Amendments**  
Because the residency requirements for the Sky Valley Planning & Zoning Commission are established within the **text of the Sky Valley Zoning Ordinance**, any change to those qualifications is a "**Zoning Decision**" under Georgia law. It is not an administrative personnel matter.

**STATUTORY MANDATE: O.C.G.A. § 36-66-3(4)(B)**

A "Zoning Decision" is explicitly defined by the State of Georgia as:

*"The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance."*

**REQUIRED PROCEDURES (O.C.G.A. § 36-66-4)**

To ensure the amendment is legally valid and enforceable, the City must:

1. **Publish Notice:** In the Rabun County legal organ at least **15 but not more than 45 days** prior to the public hearing.
2. **Public Hearing:** Conduct a formal hearing with at least 10 minutes provided for public comment per side.
3. **Two Readings:** Following the hearing, adopt the text amendment via the standard ordinance process.

**JUDICIAL PRECEDENT & CITY LIABILITY**

Georgia courts require "**strict compliance**" with these procedures. Failure to follow the ZPL renders the ordinance—and any subsequent appointments—**void ab initio** (legally dead from the start).

- **Little v. City of Lawrenceville (2000):** The ZPL is a general law that **preempts** local administrative or charter powers.
- **City of Roswell v. Outdoor Systems, Inc. (2001):** Confirms that **text amendments** to a zoning ordinance are "zoning decisions" requiring full ZPL notice and hearing.
- **McClure v. Davidson (1988):** Any zoning action taken without strictly following the ZPL notice/hearing requirements is **legally void**.

**RISK MITIGATION**

If the City appoints a nonresident before the Zoning Ordinance text is properly amended via the ZPL process, that member is **illegally constituted**. This exposes the City to litigation; any variance, site plan, or permit approved by that board can be challenged and overturned in Superior Court.

Would you like a **one-page summary** of these points to hand to the City Attorney before the meeting starts?

This one-page summary is designed to be handed to the City Attorney or City Manager. It uses a professional, "risk management" tone to help them see that following the Zoning Procedures Law (ZPL) protects the city's future decisions from being overturned.

## SUMMARY

### LEGAL STANDING

Because the residency requirements for the Sky Valley Planning & Zoning Commission are established within the **text of the Sky Valley Zoning Ordinance**, any change to those qualifications is a "**Zoning Decision**" under Georgia law. It is not an administrative personnel matter.

### STATUTORY MANDATE: O.C.G.A. § 36-66-3(4)(B)

A "Zoning Decision" is explicitly defined by the State of Georgia as:

*"The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance."*

### REQUIRED PROCEDURES (O.C.G.A. § 36-66-4)

To ensure the amendment is legally valid and enforceable, the City must:

4. **Publish Notice:** In the Rabun County legal organ at least **15 but not more than 45 days** prior to the public hearing.
5. **Public Hearing:** Conduct a formal hearing with at least 10 minutes provided for public comment per side.
6. **Two Readings:** Following the hearing, adopt the text amendment via the standard ordinance process.

### JUDICIAL PRECEDENT & CITY LIABILITY

Georgia courts require "**strict compliance**" with these procedures. Failure to follow the ZPL renders the ordinance—and any subsequent appointments—**void ab initio** (legally dead from the start).

- **Little v. City of Lawrenceville (2000):** The ZPL is a general law that **preempts** local administrative or charter powers.
- **City of Roswell v. Outdoor Systems, Inc. (2001):** Confirms that **text amendments** to a zoning ordinance are "zoning decisions" requiring full ZPL notice and hearing.
- **McClure v. Davidson (1988):** Any zoning action taken without strictly following the ZPL notice/hearing requirements is **legally void**.

### RISK MITIGATION

If the City appoints a nonresident before the Zoning Ordinance text is properly amended via the ZPL process, that member is **illegally constituted**. This exposes the City to litigation; any variance, site plan, or permit approved by that board can be challenged and overturned in Superior Court.

Respectfully Submitted this 17th day of February, 2026



JERRI SMITH

## MEMORANDUM

**TO:** Mayor, City Council, City Clerk and City Attorney of Sky Valley

**FROM:** Jerri Smith, 193 Pleasant Mountain Drive

**DATE:** February 17, 2026

**E:** Legal Insufficiency of Resolutions for Committees Regarding Residency Qualifications for "Citizens at Large"

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### I. PURPOSE

This memorandum serves as a formal objection to the recent resolution attempting to redefine the "Citizen at Large" qualification for committee and board appointments to include "part-time residents" or "property owners." Under Georgia law, this change is legally ineffective, procedurally flawed, and subjects the City to significant litigation risk.

### II. LEGAL ANALYSIS

#### 1. Violation of the Georgia Municipal Home Rule Act

The City Charter defines committee members as "citizens at large." A resolution is an administrative tool and cannot be used to amend the Charter. Under **O.C.G.A. § 36-35-3**, any amendment to the Charter requires an **Ordinance** adopted through the following mandatory process:

- Adoption at two consecutive regular meetings.
- Publication of the amendment in the official county organ for three consecutive weeks.
- **Result:** A resolution bypassing these steps is *ultra vires* (beyond legal authority) and void.

#### 2. Failure to Comply with Filing Requirements

Pursuant to **O.C.G.A. § 36-35-5**, no charter amendment or revision is effective until a certified copy is filed with the **Georgia Secretary of State** and the Clerk of the Superior Court.

- A resolution does not meet the filing criteria for the Secretary of State.
- Because the required filings cannot be completed, the original Charter language—requiring members to be legal "citizens" (domiciled residents)—remains the only valid law.

#### 3. Conflict with General Law on "Residency"

In Georgia, "residency" for the purpose of holding public office or board membership is legally synonymous with **domicile (O.C.G.A. § 21-2-217)**.

- A "citizen" is one who is domiciled within the jurisdiction.
- A municipality cannot use local legislation to create a "part-time" residency status that conflicts with the state's definition of domicile. Any individual who maintains their primary residence, voter registration, or driver's license elsewhere is legally a non-resident of Sky Valley.

#### 4. Violation of the Zoning Procedures Law (ZPL)

Because the qualifications for the Planning & Zoning Commission are contained within the **Zoning Ordinance**, any change to those qualifications constitutes a "text amendment" under **O.C.G.A. § 36-66-3(4)**. The Georgia Supreme Court has established the following:

- **Strict Compliance:** Any zoning decision made without the mandatory 15–45 day newspaper notice and a formal public hearing is **legally void** (*McClure v. Davidson*, 258 Ga. 706).
- **Preemption:** The ZPL is a general law that overrides any local resolution or "administrative" attempt to bypass it (*Little v. City of Lawrenceville*, 272 Ga. 340).

### III. LITIGATION RISK & "POISONED" DECISIONS

By seating a "part-time" resident via an invalid resolution:

1. **Illegally Constituted Board:** The board will be improperly formed under the law.
2. **Voidable Actions:** Every variance, permit, or zoning recommendation passed by such a board is subject to being overturned in court. Under *Tilley Properties, Inc. v. Bartow County*, the failure to follow ZPL procedures makes the resulting decisions unenforceable.
3. **Personal Liability:** Board members acting without legal authority may lack the protections of official immunity, exposing the City to avoidable lawsuits.

### IV. CONCLUSION

The resolution in question is a procedural shortcut that fails to meet the standards of the **Home Rule Act** and the **ZPL**. I respectfully request that the Council rescind this resolution and follow the lawful process for a Charter Amendment or Zoning Text Amendment if it wishes to change board qualifications.

Respectfully Submitted,

  
Jerri Smith, 193 Pleasant Mountain Drive

### ADDENDUM TO MEMORANDUM: SPECIFIC CHARTER CITATIONS

To ensure the Mayor and Council can cross-reference these points immediately, the following sections of the **Sky Valley City Charter** (established by 2013 Ga. Laws (Act No. 317), p. 4390) are directly impacted by this unauthorized resolution:

#### 1. Article III, Section 3.11(c) – Committee Appointments

- **The Text:** "The mayor... shall have the authority to appoint... members of such committees... consisting of councilmembers, city staff and **citizens at large**."
- **Legal Conflict:** A resolution attempting to include non-residents or "part-time" residents contradicts the plain meaning of "**citizens at large**." In Georgia, a citizen of a municipality is a person domiciled therein. A resolution cannot expand a Charter-defined term to include those who do not meet the legal definition of a citizen.

#### 2. Article V, Section 5.10 – Corporate Limits (Residency)

- **The Context:** The Charter defines the boundaries of the City.
- **The Rule:** Any individual serving as a "Citizen at Large" must be domiciled within these corporate limits. Under O.C.G.A. § 21-2-217, "residence" is the place where a person's **habitation is fixed**, without the present intention of removing therefrom. If a person maintains a primary residence elsewhere, they are not a "citizen" of Sky Valley for the purpose of the Charter.

### 3. Article VI, Section 6.13 – Ordinance Requirements

- **The Text:** Requires that all acts of a general or permanent nature, or those having the force and effect of law, **must be done by ordinance**.
- **Legal Conflict:** Changing the qualifications for committee members is a legislative act of a "general and permanent nature." Therefore, doing so via **resolution** violates the City's own internal rules for how laws must be passed.

### 4. Article VI, Section 6.14 – Emergent/Administrative Actions

- **The Limitation:** Resolutions are reserved for administrative matters or "expressions of opinion." A resolution cannot be used to bypass the **Zoning Procedures Law (ZPL)** or the Home Rule Act, which require higher levels of public notice and multiple readings.

#### LEGAL FACTS: PROCEDURAL INVALIDITY OF RESOLUTION

**TO:** Sky Valley Mayor and Council

**RE:** Non-Compliance with Georgia Law regarding "Citizen at Large" Qualifications

#### I. THE "ORDINANCE VS. RESOLUTION" RULE

A resolution cannot be used to establish permanent city policy or change the City Charter.

- **Case:** *Rogers v. Mayor of Atlanta*, 110 Ga. App. 114 (1964).
- **The Rule:** The Georgia Court of Appeals held that any act of a municipal body that is **legislative in nature** (intended to be a permanent rule of conduct) **must** be performed by **Ordinance**.
- **Application:** Changing the definition of a "Citizen at Large" to include part-time residents is a permanent legislative rule. Doing this via resolution is legally ineffective.

#### II. THE "STRICT COMPLIANCE" MANDATE (ZPL)

Because board qualifications are codified in the Zoning Ordinance, the **Zoning Procedures Law (ZPL)** applies.

- **Case:** *McClure v. Davidson*, 258 Ga. 706 (1988).
- **The Rule:** Georgia courts require "**strict compliance**" with the ZPL. Any zoning action (including text amendments regarding board eligibility) taken without following the exact 15-45 day newspaper notice and public hearing requirements is **legally void**.
- **Application:** A resolution bypasses the ZPL. This makes the appointment of any non-resident "void from the start."

#### III. THE "CHARTER AMENDMENT" PROCEDURES

The City Charter defines committee members as "citizens at large." Amending this requirement must follow the **Home Rule Act**.

- **Statute:** O.C.G.A. § 36-35-3.
- **The Rule:** To change a Charter provision, the City must adopt an **Ordinance** at **two consecutive meetings** and publish a notice in the newspaper for **three consecutive weeks**.
- **Statute:** O.C.G.A. § 36-35-5.

- **The Rule:** No amendment is effective until it is filed with the **Secretary of State**. A resolution is not a valid filing.

#### **IV. THE "DOMICILE" REQUIREMENT**

The City cannot unilaterally redefine "resident" to include part-time status for board eligibility.

- **Case:** *Broom v. Gwinnett County Board of Elections*, 213 Ga. App. 363 (1994).
- **The Rule:** Residency for the purpose of holding a position on a public body is defined as "**domicile**"—the place where a person's habitation is fixed and where they intend to remain.
- **Application:** Under Georgia law, you cannot be a "resident" of two places for the purpose of holding public office. If the appointee is not a legal "citizen/resident" of Sky Valley, they cannot satisfy the Charter's "Citizen at Large" requirement.

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#### **SUMMARY OF RISK**

If the City proceeds with this resolution:

1. **The Board is Illegally Constituted:** Any member appointed under an invalid resolution has no legal authority to vote.
  2. **Decisions are Voidable:** Any citizen can sue to overturn a zoning decision, variance, or permit if an illegally appointed member participated in the vote (*Tilley Properties, Inc. v. Bartow County*, 261 Ga. 153).
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