

ORDINANCE NO. 2009-257

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS AMENDING SECTION 15.04.030 AND TITLE 17 OF THE CALABASAS MUNICIPAL CODE TO REQUIRE PROPERTY BOUNDARY SURVEYS FOR DEVELOPMENT APPLICATIONS FOR PROPERTIES BORDERING AN OPEN SPACE (OS) OR OPEN SPACE - DEVELOPMENT RESTRICTED (OS-DR) ZONING DISTRICT

THE CITY COUNCIL OF THE CITY OF CALABASAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Based on the foregoing the City Council finds:

1. Staff initiated the proposed amendment to the Development Code in January 2009.
2. Notice of the March 11, 2009, City Council public hearing was posted at Juan de Anza Bautista Park, the Calabasas Tennis and Swim Center, Gelson's Market and at Calabasas City Hall.
3. Notice of the March 11, 2009, City Council public hearing was published in *The Acorn* ten (10) days prior to the hearing.
4. Notice of the March 11, 2009, City Council public hearing included the information set forth in Government Code Section 65009(b)(2).

SECTION 2. In view of all the evidence based on the foregoing findings and conclusions, the City Council concludes as follows:

Section 17.76.050(B) of the Calabasas Municipal Code allows the Planning Commission to recommend, and the City Council to approve, an amendment to the Development Code provided that the following findings are made:

1. *The proposed amendment is consistent with the goals, policies, and actions of the General Plan;*

The proposed amendment maintains and strengthens the policies of the General Plan, specifically that policy which aims to protect and preserve open space within the City, by requiring property boundary surveys as a mandatory component of development applications for properties bordering an Open Space zoning district. Additionally, requiring a stake survey where any stakes installed shall not be moved or removed and shall remain in place until project completion will protect open space from encroachment by surrounding development. As such, the proposed ordinance will better implement the City's General Plan and will aid in preserving open space within the City. Therefore, the project is consistent with the General Plan.

2. *The proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare of the city;*

The proposed ordinance does not contain substantive policy changes that will create a safety hazard or any condition that would negatively impact the public interest, health or welfare. Rather, the proposed amendment strengthens the City's ability to protect and preserve open space within the City. The new provisions will work in conjunction with other requirements and processes outlined in the Code to prevent the permitting of permanent real property encroachments onto adjoining open space property. Specifically, the provisions will ensure compliance with Section 17.16.040. Additionally, open space areas often include steeply sloped areas, drainage channels, etc., and public safety is protected by preventing private development from infringing upon such lands. Furthermore, all projects must still be submitted to City staff for review. Each project will be required to meet applicable code requirements and findings to ensure the individual project is not detrimental to the public health, safety or welfare. Therefore, this ordinance will not be detrimental to the public interest, health, safety, convenience or welfare of the City.

3. *The proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA).*

This project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15307 (Actions by Regulatory Agencies for the Protection of Natural Resources) of the State CEQA Guidelines because the amendment assures the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for the protection of the environment; and pursuant to Section 15308 (Actions by Regulatory Agencies for the Protection of the Environment) of the CEQA Guidelines because the amendment ensures the maintenance, restoration, or enhancement or protection of the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendment does not impact any environmental resources; rather, the amendment strengthens the City's ability to protect and preserve open space within the City. Therefore, the adoption of this ordinance is in compliance with the provisions of CEQA.

4. *The proposed amendment is internally consistent with other applicable provisions of this development code.*

The proposed amendment is consistent with other applicable provisions of this Development Code and strengthens the City's ability to protect and preserve open space within the City because the new provisions will work in conjunction with other requirements and processes outlined in the Code to prevent the permitting of permanent real property improvements which encroach on adjoining open space property. Specifically, the provisions will ensure compliance with Section 17.16.040. Furthermore, all projects must still be submitted to City staff for review and each

project will be required to meet applicable Code requirements. Therefore, the proposed amendment finding is internally consistent with the balance of the development code.

SECTION 3. CODE AMENDMENT. Section 15.04.030 of Title 15 of the Calabasas Municipal Code is hereby amended to add a new Section 106.1.4 to read as follows:

“106.1.4 Property bordering a parcel zoned Open-Space or Open-Space Development-Restricted. An application for a permit under this title for the construction or alteration of any structure to be located within ten (10) feet of a property zoned Open-Space or Open-Space Development-Restricted, as identified in the City’s zoning map, shall not be complete unless accompanied by a survey prepared by a licensed land surveyor or another person authorized by law to conduct and prepare a survey. This survey shall be required to depict (i) the boundaries of the property, (ii) the work to be constructed, and (iii) the boundary of the property nearest the site of the work which is zoned Open-Space or Open-Space Development-Restricted, as identified in the City’s zoning map. A survey is a construction document subject to all of the requirements and exceptions of Section 106 of the California Building Code. In addition to the foregoing, prior to the issuance of a building permit for any structure located within ten (10) feet of a property which is zoned Open Space or Open Space – Development Restricted, as identified in the City’s zoning map, an applicant or property owner shall be required to perform a stake survey in the manner required by the Director. Any stakes installed to fulfill the foregoing requirement shall not be moved or removed and shall remain in place consistent with the stake survey until the completion of the work for which the permit issues.”

SECTION 4. CODE AMENDMENT. A new Section 17.20.193 is hereby added to Title 17 of the Calabasas Municipal Code to read as follows:

“17.20.193 Survey

“An application for a permit under this title for the construction or alteration of any structure to be located within ten (10) feet of a property which is zoned Open-Space or Open-Space Development-Restricted, as identified in the City’s zoning map, shall not be complete unless accompanied by a survey prepared by a licensed land surveyor or another person authorized by law to conduct and prepare a survey. This survey shall be required to depict (i) the boundaries of the property, (ii) the work to be constructed, and (iii) the boundary of the property nearest the site of the work which is zoned Open Space or Open Space – Development Restricted, as identified in the City’s zoning map. A survey is a construction document subject to all of the requirements and exceptions of Section 106 of the California Building Code. In addition to the foregoing, prior to the issuance of a building permit for any structure located within ten (10) feet of a property which is zoned Open-Space or Open-Space Development-Restricted,

as identified in the City's zoning map, an applicant or property owner shall be required to perform a stake survey in the manner required by the Director. Any stakes installed to fulfill the foregoing requirement shall not be moved or removed and shall remain in place consistent with the survey until the completion of the work for which the permit issues."

SECTION 5. SEVERABILITY.

Should any provision, section, paragraph, sentence or word of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance shall remain in full force and effect and, to that end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

SECTION 7. CERTIFICATION.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED, this 22nd day of April, 2009.

Jonathon Wolfson, Mayor

ATTEST:

Gwen Peirce, City Clerk

APPROVED AS TO FORM:

Michael G. Colantuono, City Attorney