

ORDINANCE NO. 2010-267

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA AMENDING THE CALABASAS MUNICIPAL CODE TO REQUIRE ENCROACHMENT PERMITS FOR MAJOR CONSTRUCTION PROJECTS WITHIN THE OLD TOPANGA OVERLAY ZONE, THE CALABASAS HIGHLANDS OVERLAY ZONE, AND THE PARK MODERNE OVERLAY ZONE

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

**SECTION 1.** *Findings.* The Old Topanga Overlay Zone, Calabasas Highlands Overlay Zone, and the Park Moderne Overlay Zone apply to areas of the City developed well before modern standards for street access were established and these neighborhoods are characterized by narrow, winding and generally inadequate streets. Like much of the City, these neighborhoods also face fire hazards, as they represent the interface of human development and undeveloped lands of the Santa Monica Mountains Recreation Area. Public safety emergencies, including fires, earthquakes, and land movement may require evacuation of these neighborhoods and emergency access to these neighborhoods by police and fire vehicles and other equipment.

As these neighborhoods have developed in recent years, vehicle traffic and parking constraints have made difficult access to and from homes in these areas and posed challenges to the provision of public safety services. Accordingly, it is in the interest of the general health, safety and welfare of residents and visitors to these areas to control construction activity, with its attendant traffic and parking of large vehicles and use of streets for construction staging, materials storage and access, to prevent these uses from creating unsafe conditions which would arise from multiple, simultaneous construction projects that impair access to and from these neighborhoods.

**SECTION 2.** *Code Amendment.* Section 17.90.020 of the Calabasas Municipal Code is hereby amended to add the following definition at the appropriate location in that section:

“Major construction project” means a construction project on a lot within the Old Topanga Overlay Zone, Calabasas Highland Overlay Zone, or the Park Moderne Overlay Zone involving one or more of the following: (i) site grading of fifty cubic yards or more; (ii) construction or installation of an in-ground swimming pool; or (iii) addition of four hundred square feet or more of habitable area. A major construction project does not include: (iv) reconstruction of any structure damaged by a fire, flood, or natural disaster that does not increase the pre-damage habitable area by four hundred square feet or more; (v) construction or other work required to comply with another requirement of this Code; or, (vi) a project conducted by or on behalf of a government agency.

“Park Moderne Overlay Zone” means parcels in the City on or adjacent to the following streets:

Blackbird Way,  
Bluebird Dr. from Old Topanga Canyon Rd. to Meadow Lark Dr. and from Meadow Lark Dr. to its terminus,  
Meadow Lark Dr. from Humming Bird Way to Wrencrest Dr.,  
Mourning Dove Way,  
Oak Hollow Rd., and  
Pine Hollow Rd.

**SECTION 3.** *Code Amendment.* Section 17.18.020 of Chapter 17.18 of the Calabasas Municipal Code is hereby amended by adding a new subsection E. to read as follows:

“E. 1. No building, grading or other permit under Titles 15 and 17 of this Code may issue for a major construction project unless the public works director issues an encroachment permit for that project under this section to allow use of public rights of way for construction access, storage and staging. The public works director may impose such conditions on such permits as he or she deems necessary to allow reasonable construction access, storage and staging without unduly impairing access to other property in the overlay zone. An encroachment permit shall expire on the earlier of the expiration date stated in the permit or the date on which the building official issues a certificate of occupancy or final inspection approval for the major construction project.

2. Given the limited street system in the overlay zone:

- (i) no more than three encroachment permits may be effective at any time in an overlay zone;
- (ii) no more than one permit shall be issued on a City block or cul-de-sac within an overlay zone at any given time unless the block or cul-de-sac exceeds 1,000 lineal feet from intersection to intersection or intersection to terminus;
- (iii) up to two encroachment permits may be issued on streets or cul-de-sacs exceeding 1,000 feet in length, from intersection to intersection or intersection to terminus, provided the sites on which major construction projects are locate are at least 500 feet apart.

4. The public works director may revoke an encroachment permit in his or her reasonable discretion if:

- (i) a responsible person, as that term is defined in section 8.20.030 of this code, violates any condition of the permit or any provision of this code with respect the property for which the permit issued;

(ii) the major construction project with respect to which the permit issued is not actively pursued by or on behalf of the permittee for four weeks or more; or,

(iii) the active pursuit of the major construction project is slower than the pace normally attained by customary construction practices and revocation of the permit is necessary to allow issuance of a permit to another person who demonstrates the ability to promptly pursue a major construction project at the pace normally attained by customary construction practices.

5. A decision of the public works director to refuse issuance of an encroachment permit under this section, to condition such a permit, or to revoke such a permit may be appealed to the planning commission and city council pursuant to chapter 17.74 of this title.

**SECTION 4.** *Code Amendment.* Section 17.18.025 of Chapter 17.18 of the Calabasas Municipal Code is hereby amended by adding subsection E. to read as follows:

“E. No building, grading or other permit under Titles 15 and 17 of this Code may issue for a major construction project in the Calabasas Highlands Overlay Zone unless the public works director issues an encroachment permit for that project as provided in section 17.18.020(E) of this title.

**SECTION 5.** *Code Amendment.* Chapter 17.18 of the Calabasas Municipal Code is hereby amended by adding a new section 17.18.050 to read as follows:

**17.18.050 Park Moderne (-PM) Overlay Zone**

A. Purpose and Applicability. The Park Moderne (-PM) Overlay Zone is applied to zone defined in section 17.90.020 of this chapter. Parcels in this neighborhood were developed before modern standards for street access were established and this neighborhood is characterized by narrow, winding and generally inadequate streets. Public safety emergencies, including fires, earthquakes, and land movement may require evacuation of these neighborhoods and emergency access to these neighborhoods by police and fire vehicles and other equipment.

As this neighborhood has developed in recent years, vehicle traffic and parking constraints have made difficult access to and from homes and posed challenges to the provision of public safety services. Accordingly, it is in the interest of the general health, safety and welfare of residents and visitors to this area to control construction activity, with its attendant traffic and parking of large vehicles and use of streets for construction staging, materials storage and access, to prevent these uses from creating unsafe conditions which would arise from multiple, simultaneous construction projects that impair access to and from this neighborhood.

B. Permit Requirements. No building, grading or other permit under Titles 15 and 17 of this Code may issue for a major construction project in the Park Moderne Overlay Zone unless the public works director issues an encroachment permit for that project as provided in section 17.18.020(E) of this title.

**SECTION 6. Code Amendment.** Section 17.64.050 of the Calabasas Municipal Code, as adopted by Ordinance No. 2010-265, is hereby amended to read as follows:

17.64.050 Time limits and extensions.

A. Time Limits. Unless conditions of approval or other provisions of this Development Code establish a different time limit, any permit or entitlement not exercised within one year of approval shall expire and become void. A permit shall not be deemed exercised until the permittee has obtained a building permit and performed substantial construction, commenced construction, or has commenced the permitted use on the subject property in compliance with the conditions of approval provided, however, that if a permittee has taken all actions necessary to obtain a building permit and such a permit has not issued solely due to the requirements of sections 17.18.020(E), 17.18.025 (E) or section 17.18.050(B) of this title, then the expiry of the permit shall be tolled from the date the permittee takes the last action on necessary to obtain a building permit to the date that a permit issues.

B. Extensions of Time. Upon request by the applicant, the director may extend the time for an approved permit to be exercised. The applicant shall file a written request for an extension of time with the department at least ten days before the expiration of the permit, together with the filing fee required by the city fee resolution. The director shall then determine whether the permittee has attempted to comply with the conditions of the permit. The burden of proof is on the permittee to establish with substantial evidence that the permit should not expire. If the director determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the director may renew the permit for an additional one year from the date of the decision.

C. Hearing on Expiration. At the request of the applicant, the director may hold a hearing on any proposed expiration of a permit, in compliance with Chapter 17.78.

**SECTION 7. 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 8. CEQA.** Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), the City Council finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

In addition, this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15308 (actions by regulatory agencies for the protection of the environment).

**SECTION 9.** *Effective Date.* This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937 provided, however, that section 6 of this Ordinance shall not take effect sooner than the effective date of Ordinance No. 2010-265.

**SECTION 10.** *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 \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Jonathon Wolfson, Mayor

ATTEST:

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Gwen Peirce, City Clerk

APPROVED AS TO FORM:

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Michael G. Colantuono, City Attorney