

**ORDINANCE NO. 2008-253**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS ADDING SECTION 17.80.065 TO THE CALABASAS MUNICIPAL CODE TO PROHIBIT THE ISSUANCE OF A BUILDING PERMIT FOR A PROPERTY ON WHICH A VIOLATION OF THE DEVELOPMENT CODE IS MAINTAINED)**

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

**SECTION 1.** The City Council has considered all of the evidence submitted into the administrative record which includes, but is not limited to:

1. Agenda reports were prepared by the Community Development Department.
2. Staff presentation at the public hearing held on August 28, 2008 before the City Council.
3. The City of Calabasas Land Use and Development Code, General Plan, and all other applicable regulations and codes.
4. Public comments, both written and oral, received and/or submitted at or prior to the public hearing, supporting and/or opposing the applicant's request.
5. Testimony and/or comments from the applicant and its representatives submitted to the City in both written and oral form at or prior to the public hearing.
6. All related documents received and/or submitted at or prior to the public hearing.

**SECTION 2.** Based of the foregoing evidence, the City Council finds that:

1. Staff initiated the proposed amendment to the Development Code in June 2008.
2. Notice of the August 28, 2008, 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 August 28, 2008 City Council public hearing was published in The Acorn newspaper.

Attachment A

4. Notice of City Council public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).

**SECTION 3.** In view of all of the evidence and based on the foregoing findings, the City Council concludes as follows:

Section 17.76.050(B) of the Calabasas Municipal Code allows 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 City's general plan provides goals and objectives for the orderly development of the City. This amendment strengthens those policies by prohibiting the City from issuing permit on properties that have violated the City's codes and ordinances. Therefore, the project is consistent with the general plan and meets this finding.

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

The proposed ordinance actually provides for the protection of the community. It does not create and safety hazard, or any condition that would dramatically impact the public interest, health or welfare, but it actually strengthens requirement to prevent property owners from creating projects that may be detrimental to the public interest, health, safety, convenience or welfare of the city. Therefore, the addition of these provisions will not be detrimental to the public health, safety and welfare, and meets this finding.

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

Staff has determined that Section 15061(b)(3) of the CEQA Guidelines exempts this project under CEQA because it can be shown with certainty that the amendment will not have a significant effect on the environment. Under CEQA a significant effect also has to be an adverse effect. The addition of these provisions actually provides for the protection of the community, thereby providing a positive effect on the environment. Therefore the project meets this finding.

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

## Attachment A

These new provisions of the Development Code strengthen existing language in the development code and works in conjunction with other requirements and processes outlined in the code. It does not create any conflicts with the code and therefore, meets this finding.

**SECTION 4.** In view of all of the evidence and based on the foregoing findings and conclusions, the City Council adds Section 17.80.65 as follows:

### **17.80.065 Prohibition on New Permits on Properties in Violation of Code**

This section is intended to aid enforcement of this code by preventing those who own or control a property in a condition, other than a legal nonconforming use, which violates the provisions of this code from increasing the extent to which a property is out of compliance with this code and to avoid confusion as to the relationship between legal and illegal improvements on the site and the facts surrounding each.

- A. Prohibition Against Permit Issuance. No permit under this title may issue for any property on which the director finds a violation of this code exists until such violation(s) is corrected to the satisfaction of the director.
- B. Exceptions. Notwithstanding the prohibition contained in subsection A, this section shall not apply where the director, in his or her sole discretion, finds that an emergency exists necessitating the issuance of a permit, or where the issuance of a permit is necessary to correct the existing code violation(s). In such case, a permit may issue but shall be conditioned on a requirement that the illegal condition be corrected in conjunction with the permitted development on the property.
- C. Cost of Additional Services. If deemed necessary by the director, additional sheriff, code enforcement, fire, and other city services shall be provided for inspection of construction of other services to confirm that existing violations of this code are properly abated in conjunction with development on the property permitted pursuant to paragraph B. of this section. The cost of such additional services shall be paid in advance to the City by the applicant prior to the issuance of any permit in an amount reasonably estimated by the director.
- D. Additional Conditions. The director may impose any conditions found necessary to protect the public health safety and welfare on a permit issued under paragraph B. of this section.
- E. Appeal Procedures. A decision of the director to issue, conditionally issue, or deny a permit under this section shall be final unless appealed as provided in chapter 17.74 of this title.

Attachment A

F. Compliance. Nothing within this section shall be read to relieve any person from compliance with any other provision within this code.

**SECTION 5.** All documents described in Section 1 of this ordinance are deemed incorporated by reference as set forth at length.

**SECTION 6. SEVERABILITY.** If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

**SECTION 7. CONSTRUCTION.** To the extent the provisions of the Calabasas Municipal Code as amended by this ordinance are substantially the same as the provisions of that Code as they read prior to the adoption of this ordinance, they shall be construed as continuations of those prior provisions and not as new enactments.

**SECTION 8. EFFECTIVE DATE.** This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

**SECTION 9. 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 \_\_\_th day of September 2008.

\_\_\_\_\_  
Mary Sue Mauer, Mayor

ATTEST:

\_\_\_\_\_  
Robin Parker, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael G. Colantuono, City Attorney