

ORDINANCE NO. 2024-__

AN ORDINANCE OF THE CITY OF CALABASAS, CALIFORNIA, ADDING SECTION 17.16.035 TO THE CALABASAS MUNICIPAL CODE TO PROTECT OPEN SPACE IN THE CITY BY RESTRICTING DEVELOPMENT ON LANDS DESIGNATED OPEN SPACE – RESOURCE PROTECTION (OS-RP) BY THE LAND USE MAP OF THE CALABASAS GENERAL PLAN, WITH CERTAIN EXCEPTIONS.

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

SECTION 1. Purpose. The existing areas of open space in the City of Calabasas are a precious and finite resource in an increasingly urban society. The prevalence of open space in Calabasas contributes greatly to the health, safety, and quality of life of the community. This Ordinance protects, preserves and enhances the existing open space in the City and is in furtherance of the following goals:

- (a) To preserve protected open space in the City, by allowing only uses of such land that are consistent with the General Plan, applicable Specific Plans and the City’s zoning ordinance;
- (b) To encourage the preservation of natural resources, promote the protection of natural habitat in its unaltered or least altered, present condition, and maintain the conservation of private and public outdoor recreational uses allowed in open space areas by State and local law;
- (c) To protect the community’s health and safety and to maintain the character of the City; and
- (d) To reserve to the voters of the City the ultimate determination whether protected open space land designated as Open Space – Resource Protection (OS-RP) by the Calabasas General Plan land use map should be altered and developed.

The preservation of existing protected open space in the City and open space acquired or designated in the future is necessary to protect the health, safety, and quality of life in the City. This Ordinance works in conjunction with the City’s existing voter-approved open space protection measure (as codified in Section 17.16.030 of the Calabasas Municipal Code), which prohibits a General Plan amendment of any lands designated Open Space – Recreational (OS-R), Open Space – Resource Protection (OS-RP), or Public Facilities – Recreational (PF-R) in the Calabasas General Plan for non-open space uses without two-thirds voter approval or certain exceptions. This Ordinance adds to the existing open space protections by definitively prohibiting development, as defined, within any lands designated OS-RP,

without two-thirds voter approval or certain exceptions. This Ordinance also prohibits any amendment to the Calabasas General Plan redesignating any land OS-RP by the Land Use Map of the Calabasas General Plan as of the date of adoption, to any other land use designation, without two-thirds voter approval or certain exceptions.

SECTION 2. Findings. In view of all of the evidence and based on the foregoing, the City Council makes the following findings for this Ordinance, which is a development code amendment, pursuant to paragraph B of Section 17.76.050 of the Calabasas Municipal Code:

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

The proposed Ordinance meets this finding because it furthers the Calabasas General Plan Open Space Element's objective of maintaining a citywide open space system that conserves natural resources, preserves scenic beauty, promotes a healthful atmosphere, and protects public safety. This Ordinance limits development on open space lands designated as OS-RP, unless such development meets certain exceptions, in an effort to maintain and preserve the land in its most natural or least altered, present condition.

In addition, this Ordinance's restrictions on development on open space land designated as OS-RP furthers the General Plan's Open Space Element Policy III-3, by limiting the permitted intensity of development of open space land to avoid significant impacts to sensitive environmental features, such as woodlands, wildlife habitats, and riparian areas. By restricting development and limiting soil disturbance, this Ordinance also furthers the General Plan's Open Space Element Policy III-5, by limiting landform modifications and preserving ridgelines and other significant landforms.

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

This Ordinance is not detrimental to the public interest, health, safety, convenience or welfare of the City or its residents because it promotes natural habitat preservation, conservation of natural resources, and maintains the visual character of open space land. The Ordinance furthers public health, safety, and convenience by limiting development in areas of high fire severity zones, allows for vegetation removal for fuel modification purposes, and improves the quality of life of the community by ensuring maintenance of passive recreational use and protection of important environmental resources. As a result, the proposed Ordinance meets this finding.

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

The City Council finds the adoption of this ordinance is exempt from review under the California Environmental Quality Act as action taken to protect the environment and to protect the City's natural resources. Under § 15307 and § 15308 of Division 6 of Title 14 of the California Code of Regulations, the CEQA Guidelines, the adoption of this ordinance is not subject to the California Environmental Quality Act.

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

This Ordinance ensures that development within land designated OS-RP in the General Plan is consistent with allowable development within the Development Code. Furthermore, this Ordinance provides greater clarity on how to implement existing open space regulations within the Development Code. As a result, the proposed Ordinance meets this finding.

SECTION 3. Code Amendment. Chapter 17.16 [Special Purpose Districts] of the Calabasas Municipal Code is hereby amended by adding Section 17.16.035, to read in its entirety as follows:

"17.16.035 – Voter approval required for development on lands designated Open Space – Resource Protection (OS-RP) by the Land Use Map of the Calabasas General Plan; exceptions.

A. Development is prohibited on any property, or portion thereof, in the city that is designated OS-RP by the Land Use Map of the Calabasas General Plan, as of the date of adoption of this section, unless such proposed development is approved by two-thirds of the voters of the city casting votes on the question at a lawfully called election. Prior to the placement of such proposed development on a ballot, the city shall follow the procedures required by local, state, and federal law, including the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.* Approval of any proposed development of any property in the city that is designated OS-RP by the Land Use Map of the Calabasas General Plan as of the date of adoption of this section may take effect only upon two-thirds approval of those casting votes on the question in the applicable city election.

B. As used in this section, "development" means any grading or construction activity, including, but not limited to: (i) any construction, reconstruction, demolition, placement, erection, expansion, or alteration of any structure; (ii) any excavation, removal, mining, addition, or extraction of soil or any materials; (iii) any change in the density or intensity of use of land; (iv) any subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code),

and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency or qualified nonprofit organization for passive recreational use or permanent preservation; or (v) any alteration of the land, its terrain, contour, or vegetation.

- C. As used in this section, “structure” includes, but is not limited to, any building, road, pipe, drain, channel, flume, conduit, siphon, aqueduct, telephone line, or electrical power transmission and distribution line.
- D. Exceptions. The requirements of this section shall not apply to:
1. Development in response to a declared state of emergency under chapter 2.44 of this code or as declared under other local, state, or federal law, or in response to an imminent threat to public health, safety, or welfare requiring immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public service, as determined necessary by the City Manager.
 2. Development facilitating any of the following land uses, if approved by a two-thirds majority of the City Council:
 - a. Uses permitted in the PF zoning district, but solely for land owned by a public agency or a public utility;
 - b. Uses in support of open space uses, including, but not limited to, parking facilities, informational or directional signage, fencing, trails, small shade structures, benches, restrooms, and drinking fountains, provided that such supportive uses minimize environmental impacts to natural habitat;
 - c. Public utility facilities, including, but not limited to, electrical lines, telephone lines, water/sewer pipelines, and wireless telecommunication facilities;
 - d. The repair, replacement, or maintenance of private utility facilities that exist on the property, as of the date of adoption of this section; and
 - e. Vegetation removal for fire prevention/fuel modification, environmental protection, or the abatement of any condition or nuisance that is a serious and imminent danger to the public.
 3. Vegetation removal for fire prevention/fuel modification, as ordered by the Los Angeles County Fire Department or other public agency having authority over such vegetation removal.

4. Development that the city council, on the advice of the city attorney, determines is necessary to avoid an unconstitutional taking of private property or otherwise required by law.
 5. Development pursuant to a project that has been granted vested rights or entitlements under this code or under some other lawfully enforceable agreement between the city and the project applicant, as of the date of adoption of this section.
- E. Any land designated OS-RP by the Land Use Map of the Calabasas General Plan after the date of adoption of this section shall become subject to the requirements of this section upon such designation.
- F. No amendment to the General Plan or any specific plan that would redesignate any property, or portion thereof, in the city designated OS-RP by the Land Use Map of the Calabasas General Plan as of the date of adoption of this section, to any other land use designation shall be effective for any purpose until that amendment has been approved by two-thirds of the voters of the city casting votes on the question. Before the placement of such amendment on the ballot, the city shall follow the procedures required by local, state, and federal law, including the California Environmental Quality Act, Public Resources Code Sections 21000 et seq. Such an amendment may take effect only upon two-thirds approval of those casting votes on the question."

SECTION 4. Code Amendment. Chapter 17.02 [Land Use Permit Requirements] of the Calabasas Municipal Code is hereby amended by adding Sub-section 17.02.020(A)(3), to read in its entirety as follows:

"The development or activity is not located on any parcel within the OS-RP land use designation of the Calabasas General Plan, which shall be subject to the requirements of Section 17.16.035 of this Code."

SECTION 5. 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 people or circumstances, shall not be affected thereby and shall remain in full force and effect and the provisions of this Ordinance are severable.

SECTION 6. Publication; Certification. The City Clerk shall cause this Ordinance to be published or posted in accordance with the California Government Code Section 36933. She shall certify to the adoption of this Ordinance and her certification, together with proof of the publication, will be entered in the book of Ordinances of the City Council.

SECTION 7. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption, pursuant to California Government Code Section 36937.

PASSED, APPROVED AND ADOPTED, this ___ day of _____ 2024.

Alicia Weintraub, Mayor

ATTEST:

APPROVED AS TO FORM:

Analuz Mendoza
Interim City Clerk

Matthew T. Summers
City Attorney
Colantuono, Highsmith & Whatley

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