

**ORDINANCE NO. 2008-241**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS ESTABLISHING AN HISTORIC PRESERVATION ORDINANCE FOR THE CITY OF CALABASAS BY AMENDING TITLES 2 AND 17 OF THE CALABASAS MUNICIPAL CODE TO ADD CHAPTER 2.30 (ESTABLISHMENT OF AN HISTORIC PRESERVATION COMMISSION) AND 17.36 (HISTORIC PRESERVATION ORDINANCE) AND TO AMEND CHAPTER 17.90 (ADD DEFINITIONS FOR HISTORIC PRESERVATION) AND SECTION 17.18.040 (ELIMINATE CONFLICTS WITH THE SCENIC CORRIDOR ORDINANCE)**

**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 December 12, 2007 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 August 2007.

2. Notice of the December 12, 2007, 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 December 12, 2007 City Council public hearing was published in The Acorn newspaper.
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 Planning Commission to recommend and the City Council 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 preservation and protection of historic resources. This amendment implements the goals and objective of the general plan by creating an ordinance to facilitate the protection and preservation of historic resources. 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 a segment of the community. It does not create and safety hazard, or any condition that would dramatically impact the public interest, health or welfare. All projects submitted to the city will still be required to meet applicable code requirements and findings that ensure each individual project is not detrimental to the public health, safety and welfare. Therefore, the creation of an historic preservation ordinance 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 creation of an historic preservation ordinance actually provides for the protection and preservation of historic resources, 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.*

The only provision of the Development Code that conflicts with this ordinance concerns scenic corridors. To correct this conflict, language is being added to the scenic corridor ordinance to resolve the conflict. Submitted projects will still be required to meet all other standards in the Development Code which will not create any conflicts. Therefore, the project meets this finding.

**SECTION 4.** In view of all of the evidence and based on the foregoing findings and conclusions, the City Council adds Chapter 2.30 as follows:

**2.30.010 – Creation**

An Historic Preservation Commission is established in accordance with the provisions of this Code and may be known and referred to as the "Calabasas Historic Preservation Commission," the "Historic Preservation Commission," or the "Commission."

**2.30.020 – Membership**

**A. Appointment.**

1. The Historic Preservation Commission shall consist of five members and an ex-officio, non-voting member.
2. Each City Councilmember shall nominate one commissioner, which nomination shall be subject to City Council confirmation.
3. The ex-officio, non-voting member shall be a member of the Calabasas Historical Society. The Board of Directors of the Calabasas Historical Society shall nominate the non-voting member, which nomination shall be subject to City Council confirmation.
4. The City Council may reappoint a commissioner to an unlimited number of terms.
5. The City Council, by majority vote, may remove a commissioner from office with or without cause.

**B. Required Qualifications.**

1. Members shall be lawful residents of the City and electors during their respective terms of office. A lawfully resident nonelector may also serve on the Commission, provided that he or she has a pending application for citizenship at the time of his or her Commission appointment.
2. All members should have a demonstrated interest in Calabasas' historical, architectural and cultural heritage and have special interest, knowledge, or training in fields closely related to historic preservation. Such fields include architecture, history, landscape architecture, architectural history, planning, archaeology, urban design, geography, real estate, law, finance, building trades or related areas.

**C. Desired Qualifications.**

1. If possible, the City Council shall appoint at least two members to the Commission who are professionals in the fields or disciplines of architecture, landscape architecture, history, architectural history, urban planning, American studies, geography, archaeology, or other historic preservation-related disciplines to the extent that such professionals are available in the community.

**D. Terms.**

1. Commissioners nominated by individual City Councilmembers shall have terms lasting for the lesser of two years or until the expiration of the term of the Councilmember who nominated him or her. Notwithstanding the expiration of a term, a commissioner or alternate shall continue until his or her successor has been appointed.
2. If a vacancy occurs other than by expiration of a term, a new commissioner shall be appointed in the manner set forth above and shall serve the unexpired portion of the term. If the vacancy is associated with the special qualifications listed in Section 2.36.030, the City Council shall endeavor to appoint a person with such qualifications.

**2.30.040 – Organization**

- A. The Historic Preservation Commission shall elect a chair and a vice-chair from among its members, each for a term of one year, at its first regular meeting in April of each year. No officer shall serve more than three successive terms.

- B. **With the consent of the City Council, the Commission may also appoint such other officers as may be necessary for the administration of its business, at the same time and for like terms.**
- C. The Commission may appoint committees from its membership and, with the consent of the City Council, appoint advisory committees from other interested public and private groups.
- D. The Commission may adopt rules and regulations for the transaction of its business. The Commission is subject to the Ralph M. Brown Act, Section 54950, et seq., of the Government Code.
- E. The City's Historic Preservation Officer shall serve as secretary of the Commission.

### **2.30.050 – Powers and Duties**

The Historic Preservation Commission shall have the following powers and duties as specified in chapter 17.36 of this Code.

- A. Recommend for adoption by the City Council criteria for, and upon appropriation of necessary funds by the Council, conduct or cause to be conducted, a comprehensive survey in conformance with state and federal survey standards, policies and guidelines of historical resources within the boundaries of the City, and to publicize and periodically update the survey results.
- B. The authority to hear and decide the following.
  - 1. Applications for certificates of appropriateness.
  - 2. Applications for certificates of economic hardship.
- C. The authority to hear and make recommendations to the City Council regarding the following.
  - 1. Applications for designations of historic landmarks, landscapes and districts.
  - 2. Applications for placement of landmarks or districts on the National Register of Historical Places or the California Register of Historical Resources.
  - 3. Applications for Mills Act contracts.

- D. Authority to act upon an appeal of any order, requirement, permit, decision, or determination of the City's Historic Preservation Officer concerning historical resources under this Development Code.
- E. Maintain a local register of designated historic landmarks, landscapes and districts consistent with those criteria contained in the National Register of Historic Places and the California Register of Historical Resources, including all information required for each designation.
- F. Undertake any other action or activity necessary or appropriate to implement its powers or duties to fulfill the objectives of the historic preservation program.

### **2.30.060 – Meetings**

Regular meetings of the Historic Preservation Commission shall be held quarterly, on the second Wednesday of the month, in the months of January, April, July and October, at the hour of 7:00 p.m.; or the next succeeding day which is not a holiday; or at such other times as may be established by resolution of the City Council. Regular meetings may be adjourned by public announcement to a specified date, and any such adjourned meeting shall be deemed a regular meeting. Special meetings may be called as provided in the Ralph M. Brown Act and shall be convened as necessary to ensure that actions required of the Commission under this Code are consistent with the requirements of the Permit Streamlining Act, Government Code Section 65950, et seq., and that projects which require approval from both the Historic Preservation Commission and the Planning Commission are considered consistently with the deadlines established in that Act.

### **2.30.070 – Absence from Meetings**

Notwithstanding any other provision of this Code, any commissioner who absents himself from any three consecutive regular meetings of the Historic Preservation Commission, unless excused from attendance by consent of the Commission expressed by action recorded in its minutes, shall thereby automatically forfeit his or her position as a Commission member. The secretary of the Commission shall promptly notify the City Council, and any such person so ceasing to be a commissioner, of the fact of such vacancy.

### **2.30.080 – Records**

The secretary of the Historic Preservation Commission shall cause proper records to be kept of all the Commission's official acts, proceedings and resolutions, which shall be public records. The Commission shall make reports to the City Council as provided for in the state planning law (Government Code Section 65400), and as provided by the Council.

### **2.30.090 – City Historic Preservation Officer (CHPO)**

The Community Development Director, or his or her designee, shall serve as the City's Historic Preservation Officer (CHPO) and as secretary to the Historic Preservation Commission. The Historic Preservation Officer shall maintain a record of all Commission resolutions, proceedings and actions, in addition to the other duties specified herein.

### **2.30.100 – Appeal from Commission Decision**

- A. Historic Preservation Commission decisions shall become final at 5:00 p.m. on the 10th day next succeeding the date of the decision unless, prior to that hour, an appeal is filed in accordance with Chapter 17.74.
- B. In addition to the requirements of Chapter 17.74, the following requirements shall apply to appeals of Commission decisions.
  - 1. The filing of an appeal within the time limit herein specified shall stay the order of the Commission and the issuance of any permits predicated thereon until the City Council has acted on the appeal.
  - 2. Appeals shall be heard and decided by the Planning Commission.
  - 3. The fee for an appeal of the Commission's decision shall be established by City Council resolution, as amended.
  - 4. In meeting the requirements of Section 17.74.030, the grounds for an appeal shall be based upon a claim that the Commission erred in its decision, and the appeal shall state the reasons the Commission erred.

**SECTION 5.** In view of all of the evidence and based on the foregoing findings and conclusions, the City Council adds Chapter 17.36 as follows:

#### **17.36.010 – Title**

This article shall be known as the Historic Preservation Ordinance of the City of Calabasas.

#### **17.36.020 – Purpose**

The City Council declares that the recognition, preservation, protection and reuse of historic resources are required in the interests of the health, prosperity, safety, social and cultural enrichment, general welfare and economic well-being of the people of Calabasas. The designation and preservation of historic resources and

districts, and the regulation of signs, alterations, additions, repairs, removal, demolition or new construction to perpetuate the historic character of historic resources and districts, is hereby declared to be a public purpose of the City.

Therefore, the purposes of this Chapter include the following.

1. Safeguarding Calabasas' heritage by protecting resources that reflect elements of the City's cultural, social, economic, architectural and archaeological history.
2. Promoting public understanding, appreciation and involvement in the City's unique heritage.
3. Fostering civic pride in notable accomplishments of the past.
4. Deterring demolition, misuse or neglect of historic resources, landmarks, districts, contributing resources, and potential historic resources, landmarks or districts, which represent important links to Calabasas' or California's past.
5. Promoting conservation, preservation, protection and enhancement of historic resources and potential historic resources.
6. Protecting and enhancing the City's attractiveness to residents and visitors, and supporting economic development.
7. Restoring and improving the City's visual and aesthetic character.
8. Promoting the use of historic resources, especially for the education, appreciation and general welfare of the people of Calabasas.

#### **17.36.030 – Applicability**

The provisions of this Chapter shall apply to all historical resources within the City of Calabasas.

#### **17.36.040 – Historic Contexts and Historical Resource Surveys**

The City shall develop, from time to time, historic contexts and historic resource surveys. Historic contexts and historic resource surveys can serve many purposes, including providing the basis to identify and evaluate properties that have the potential to be considered eligible historical resources, as identified in Section 17.36.050. For the purposes of this Chapter, historic contexts and historical



resource surveys are explained below to provide greater knowledge of the role they serve in an historic preservation program.

- A. **Historical context.** An Historic Context provides the background and the basis for evaluating properties to determine their historical significance. An historic context is an organizational framework for historic preservation. The historic context organizes information based on a cultural theme and its geographical and chronological limits. Contexts describe the significant broad patterns of development in an area that may be represented by historic properties. The development of historic contexts is the foundation for decisions about identification, evaluation, registration and treatment of historic properties. An historic context provides an understanding of the relationship of individual properties to other similar properties, which in turn allows decisions about the identification, evaluation, registration and treatment of historic properties to be made reliably. Information about historic properties representing aspects of history, architecture, archeology, engineering and culture must be collected and organized to define these relationships.
- B. **Historical resource surveys.** Surveys are performed to identify properties that have the potential to become eligible historical resources as well as areas and neighborhoods that, due to the concentration of potential historical resources, have the potential to be historic districts. Surveys are conducted at two different levels: reconnaissance and intensive. Properties surveyed at the reconnaissance level in accordance with the standards set forth by the California Office of Historic Preservation are identified but not evaluated for historic significance. Intensive-level surveys identify and evaluate properties for historic significance.

#### **17.36.050 – Eligibility and Designation Criteria**

##### **A. Eligibility.**

1. Any property surveyed at the intensive level in accordance with the standards set forth by the California Office of Historic Preservation, and determined by the Historic Preservation Commission to meet the designation criteria for historic landmarks set forth in this Section, is considered an eligible historical resource.
2. Any cultural landscape surveyed at the intensive level in accordance with the standards set forth by the California Office of Historic Preservation, and determined by the Commission to meet the designation criteria for historic landscapes set forth in this Section, is considered an eligible historical landscape.

3. Any area or neighborhood surveyed at the intensive level in accordance with the standards set forth by the California Office of Historic Preservation, and determined by the Commission to meet the designation criteria for historic districts set forth in this Section, is considered an eligible historic district.

**B. Historic landmarks.** Any eligible historical resource may be designated an historic landmark by the City Council pursuant to Section 17.36.080, if it meets the criteria for listing in the National Register of Historic Places or the California Register of Historical Resources, or it meets one of the following criteria.

1. Is associated with events that have made a significant contribution to the broad patterns of Calabasas' history.
2. Is associated with the lives of persons important to Calabasas' history.
3. Embodies the distinctive characteristics of a type, period, region or method of construction; represents the work of a master; or possesses high artistic values.
4. Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

**C. Historic districts.** Any eligible historic district may be designated as an historic district by the City Council pursuant to Section 17.36.080, if the neighborhood meets the criteria for listing in the National Register of Historic Places or the California Register of Historical Resources, or the neighborhood meets one of the following criteria.

1. (a) Is a contiguous area possessing a concentration of eligible historic resources or thematically related grouping of structures which contribute to each other and are unified by plan, style, or physical development; and (b) embodies the distinctive characteristics of a type, period, region, or method of construction, represents the work of a master, or possesses high artistic values.
2. Reflects significant geographical patterns, including those associated with different eras of settlement and growth; particular transportation modes; or distinctive examples of a park landscape, site design, or community planning.
3. Is associated with, or the contributing resources are unified by, events that have made a significant contribution to the broad patterns of Calabasas' history.

4. Its contributing resources are associated with the lives of persons important to Calabasas' history;

**D. Historic landscapes.** Any eligible historical landscape may be designated as an historic landscape pursuant to Section 17.36.080, if the landscape meets the criteria for listing in the National Register of Historic Places or the California Register of Historical Resources, or the neighborhood meets one of the following criteria.

1. Is associated with events that have made a significant contribution to the broad patterns of Calabasas' history.
2. Is associated with the lives of persons important to Calabasas' history.
3. Embodies the distinctive characteristics of a type, period, region or method of construction; represents the work of a master; or possesses high artistic values.
4. Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

**E. Automatic designation.** Any property listed in the National Register of Historic Places or the California Register of Historical Resources is a local historic landmark. Any cultural landscape listed in the National Register of Historic Places or the California Register of Historical Resources is a local historic landscape. Any neighborhood or area listed in the National Register of Historic Places or the California Register of Historical Resources is a local historic district. Any property identified as a contributing structure to a District listed on the National Register of Historic Places or the California Register of Historical Resources is a contributing structure in the local historic district.

**F. Considerations in evaluating properties: integrity.** In addition to having significance, a resource must have integrity for the time period in which it is significant. The period of significance is the date or span of time within which significant events transpired, or significant individuals made their important contributions. Integrity is the authenticity of a historical resource's physical identity as evidenced by the survival of characteristics or historic fabric that existed during the resource's period of significance. Only after significance has been established should the issue of integrity be addressed. The following factors should be considered when evaluating properties for integrity.

1. Design. Any alterations to the property should not have adversely affected the character-defining features of the property. Alterations to a resource or

changes in its use over time may have historical, cultural, or architectural significance.

2. **Setting.** Changes in the immediate surroundings of the property (buildings, land use, topography, etc.) should not have adversely affected the character of the property.
3. **Materials and workmanship.** Any original materials should be retained or, if they have been removed or altered, replacements have been made, that are compatible with the original materials.
4. **Location.** The relationship between the property and its location is an important part of integrity. The place where the property was built and where historic events occurred is often important to understanding why the property was created or why something happened. The location of an historic property, complemented by its setting, is particularly important in recapturing the sense of historic events and persons. Except in a few cases, the relationship between a structure and its historic associations is destroyed if the structure is moved.
5. **Feeling.** Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character.
6. **Association.** Association is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property's historic character. For example, a Revolutionary War battlefield the natural and manmade elements of which have remained intact since the 18th century retains its quality of association with the battle.

Because feeling and association are subjective criteria, their retention alone is never sufficient to support eligibility. Historical resources must retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance.

#### **17.36.060 – Calabasas Register of Historic Places**

City of Calabasas resolutions designating historic landmarks, landscapes, and districts shall comprise the Calabasas Local Register of Historical Resources. The Calabasas Historical Preservation Officer shall maintain the Local Register and

ensure it lists the resources automatically designated pursuant to Section 17.36.050(E) of this chapter.

### **17.36.070 – Requirements for Archaeological Resources**

The following studies are required for any project that has the potential to affect archaeological resources. All reports will be prepared in accordance with federal and state guidelines, and by persons who meet the Secretary of the Interior's professional qualification standards.

- A. **Phase I archaeological assessment.** A Phase I archaeological assessment is required for any property listed or located within a historical resources sensitivity area as identified in the City of Calabasas General Plan.
  
- B. **Exceptions to a Phase I study.** Exceptions to the Phase I study requirement can be made by the City's Historic Preservation Officer in any of the following situations.
  - 1. Prior archaeological or historic studies have been performed and no significant deposits have been found.
  - 2. Building additions and modifications will not exceed 5% of the existing building footprint square footage.
  - 3. Interior remodeling or exterior facade renovation is proposed.
  - 4. In other circumstances that, in the CHPO's judgment, warrant an exemption from the Phase I study requirement. Exemption decisions should be coordinated as part of planning staff review of a project. Exemptions shall not be permitted for Phase I, II, or III studies on any parcel where archaeological deposits or historic structures meeting CEQA definitions of significance are met.
  
- C. **Phase II study:** archaeological significance evaluations. A Phase II study is required if archival or physical evidence on the surface of a location proposed for development indicates that historic or prehistoric archaeological resources or important historical resources may be present. Any Phase II (subsurface) archaeological test excavations shall be designed and implemented by trained historic and/or prehistoric archaeologists. The Phase II requirements are mandatory where any significant cultural resource is identified as a result of Phase I evaluation.

A Phase II study shall also determine the probable area and vertical extent of archaeological remains and determine whether the deposits are intact and meet

CEQA eligibility requirements pursuant to CEQA guidelines. In the cases of historic structures, the Phase II study shall identify the significance of the structure and any potential mitigation plan which may reduce impacts to the structure. The Phase II report shall include a plan for mitigation complying with Appendix K of the CEQA guidelines if significant deposits or historic buildings or sites are encountered.

D. **Phase III data recovery and mitigation program.** A Phase III data recovery and mitigation program shall be required when any archaeological resources are determined to be eligible historical resources under this ordinance or CEQA guidelines. Any impacts to a significant historic or prehistoric archaeological site or standing structure shall be mitigated through a Phase III (subsurface testing or architectural documentation) data recovery program. Financial limitations on Phase III programs shall conform with Appendix K of the CEQA guidelines unless construction is undertaken with federal funds, in which case mitigation funding shall comply with and be limited by federal standards and guidelines. If feasible, construction impacts to significant archaeological deposits shall be minimized through the use of less destructive footing construction technology (post-tensioned slabs, pier footings, etc). All studies must include mitigation measures to reduce the impact of the proposed project on the archaeological resources. These studies must be completed as part of a certificate of appropriateness application.

E. **Public Records Act.** The City of Calabasas will treat all archeological site information, including reports with specific site locations, as confidential information. However, since many non-sensitive properties (such as rock walls, ditches, Victorian buildings, etc.) have been recorded in archeological site records, a review of the individual site record should be accomplished to determine whether a specific property's location and information should be withheld under any given circumstance. This information will be kept on file with the City of Calabasas' Community Development Department. The City Historic Preservation Officer, in consultation with the Historic Preservation Commission, will develop a policy regarding access to such records. Any policy should be consistent with state or federal regulations.

#### **17.36.080 – Designation Procedures**

##### **A. Applications for nomination.**

1. Any person or group, including the City, may request the designation of an historical resource as an historic landmark, landscape or district by submitting an application to the City Historic Preservation Officer.
2. All Applications shall include the following.

- a. Documentation indicating how the nominated resource satisfies the designation criteria.
- b. Any other information determined to be necessary for review of the proposed work.
- c. Required fees.

**B. Initial application review.** All applications filed with the CHPO as required by this title shall be initially processed as follows.

1. **Completeness review.** Within 30 days of filing, the CPHO shall review all applications for completeness and accuracy before they are accepted as complete.
2. **Notification of applicant.** The applicant shall be informed by letter that the application is either complete and has been accepted for processing; or, that the application is incomplete and that additional information, specified in the letter, must be provided. When an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness must occur. The time available to an applicant for submittal of additional information is limited by Subsection (3) below.
3. **Appeal of determination.** Where the CPHO has determined that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the CPHO is not required, the applicant may appeal the determination in compliance with Chapter 17.74.
4. **Expiration of application.** If a pending application is not completed by the applicant (i.e., not accepted as complete by the CPHO) within six months after its first filing, the application shall expire and be deemed withdrawn. A new application may then be filed in compliance with this article.

**C. Historic Preservation Commission.**

The Historic Preservation Commission shall evaluate each application for landmark, landscape or district nomination, in accordance with the criteria established in Section 17.36.050, at a public hearing, and shall decide by majority vote whether to approve any nomination and forward it to the City Council with a recommendation for historic designation.

1. The secretary of the Commission shall set the time and place for such hearings, which may be continued from time to time.
2. The secretary shall give the applicant(s) and property owner(s) notice of the time, place and purpose of such hearings in writing. The secretary shall also publish a notice of Commission hearings according to the noticing requirements in Section 17.78. The secretary may also give such additional notice as deemed desirable and practicable.
3. Following the hearing, the Commission shall recommend by resolution that the City Council approve or reject the nomination. If the Commission votes to nominate the historic resource for landmark, landscape or district designation, the secretary shall forward the nomination to the City Council with a written recommendation for designation.
4. Within ten (10) days of the Commission's decision, the secretary shall mail notice thereof to the applicant(s) and owner(s) of record of the property proposed for nomination.

#### **D. City Council.**

The City Council has sole authority to designate an historic resource as an historic landmark, landscape or historic district.

1. Within ten (10) days of the Historic Preservation Commission's nomination, the secretary shall send a copy of the historic landmark or district nomination to the City Clerk. The City Clerk or his/her designee shall set a public hearing at which the City Council shall consider the Commission's recommendation.
2. The secretary shall give the applicant(s) and property owner(s) notice of the City Council hearing time and place at least ten (10) days prior to the hearing date, together with a copy of the Commission's written recommendation to the Council, according to the noticing procedures contained in Section 17.78.
3. Following the hearing, the City Council shall adopt or reject the historic designation or, at its discretion, continue consideration of the matter, or refer the proposed designation to the Commission for further review within a period of time the Council sets.
4. Designation of an historic resource as an historic landmark, landscape or district shall be by resolution and shall reference the specific criteria and/or findings on which the historic designation is based.



5. Within ten (10) days of the City Council's decision, the City Clerk shall mail notice thereof to the applicant(s) and owner(s) of record of the nominated property.
  6. All buildings or structures designated as historic landmarks or as part of an historic district pursuant to this Chapter shall be so recorded by the City in the Office of the Los Angeles County Recorder. The recorded document shall contain the name of the owner or owners; a legal description of the property; the date and substance of the designation; a statement explaining that alteration; relocation or demolition are restricted; and a reference to this Section authorizing the recordation.
- E. **Permits.** No building, alteration, demolition, or removal permits for any historical resource shall be issued while a nomination of that resource for designation as an historic landmark or for designation of an historic district to which the resource contributes is pending.
- F. **Removal.** The Historic Preservation Commission shall not recommend that a resource be removed from the Local Register unless it is discovered that the information relied on by the Commission and the City Council in making the original designation was erroneous or false; or that circumstances wholly beyond the owner's control have rendered the resources ineligible for designation based on the criteria listed in Section 17.36.050, and it would be infeasible to restore the resource. A resource cannot be removed from the Local Register merely because the value of the resource has been degraded by neglect.
- G. **Owner objection to designation.** No property shall be designated an historic landmark if the owner objects to the designation, unless the City Council makes the findings listed in Subsection (H) below. No area will be designated an historic district if a majority of the property owners of the contributing properties to the proposed district object, unless the Council makes the findings listed in Subsection (H) below. For historic landscapes, if the landscape is located on a single property, the property shall not be designated as an historic landscape if the property owner objects, unless the Council makes the findings listed in Subsection (H) below. If the landscape is contained on multiple properties, the properties shall not be designated as an historic landscape if a majority of the property owners object, unless the Council makes the findings listed in Subsection (H) below.
- H. **City Council override of owner's objection to designation.** The City Council may, by a four-fifths vote, designate an historic landmark, historic district, or historic landscape over the objection of the owner(s) as described above in Subsection (G), if all of the following findings are made.

1. The landmark, district, or landscape meets the criteria for designation under Section 17.36.050 of this Code.
2. The landmark, district, or landscape is an especially valuable historic resource as compared to other designated resources in and near the City.
3. The social benefit of designating the landmark, district or landscape can be shown by clear and convincing evidence to outweigh the private burden of designation, and designation would not damage the owner of the property unreasonably in comparison to the benefits conferred on the community.

### **17.36.090 – Alterations to Historical Resources (Certificates of Appropriateness)**

A certificate of appropriateness process is established to ensure that any alteration to an historical resource is in keeping with the historic character of the resource.

#### **A. General requirements.**

1. A certificate of appropriateness is required for any of the following.
  - a. Alteration, addition, restoration, rehabilitation, remodeling, demolition or relocation of an historical resource, including interior improvements, when the Historic Preservation Commission has determined that interior features of the historic resource are significant features. Approval of such work shall be required even if no other permits are required by this code or other law.
  - b. Any work, including alterations, additions, restorations, rehabilitations, remodeling, or demolition to the exterior of any non-contributing structure in an historic district. Reasonable efforts shall be made to make such exterior alternations compatible with the historic district, and in no event shall alteration of the exterior of a non-contributing structure increase the dissimilarity of the structure and its historic context.
  - c. Infill development within an historic district.
  - d. Any work, including alterations, additions, restorations, rehabilitations, remodeling, or demolition to any historic landscape.
  - e. Development projects that may impact archaeological resources.
2. No permit shall be issued for work on an historical resource until a certificate of appropriateness or waiver has been issued in accordance with this Section.

3. Once a certificate of appropriateness has been issued, the City Historic Preservation Officer may inspect the work to ensure that it complies with the approved certificate of appropriateness.

**B. Initial staff review.**

1. The City Historic Preservation Officer shall review all proposed work on any historical resource to determine if a certificate of appropriateness is required.
2. If the CPHO determines the proposed work is consistent with the guidelines set forth in Section 17.36.120(G), a waiver shall be issued.
3. If the CPHO determines the proposed work is not consistent with the guidelines set forth in Section 17.36.120(G), a certificate of appropriateness shall be required.
4. Determinations by the CPHO pursuant to this Subsection shall be made within 30 days of the date an application is deemed complete.

**C. Applications.**

1. All applications shall be filed with the City Historic Preservation Officer. The applicant is encouraged to confer with the CPHO before submittal of the application.
2. All applications shall include the following.
  - a. Plans and specifications showing the existing and proposed exterior appearances.
  - b. Materials and colors to be used on the exterior of the resource.
  - c. Relationship of the proposed work to the surrounding environment, if necessary.
  - d. For new construction in historic districts, relationship to the existing scale, massing, architectural style, site and streetscape, landscaping and signage.
  - e. Any other information the CHPO reasonably determines to be necessary for review of the proposed work.
  - f. Required fees.

D. **Procedures.** Applications for certificates of appropriateness shall be processed in accordance with the procedures listed in Chapter 17.60.

E. **Findings of fact.** One of the following findings shall be required for the approval of a certificate of appropriateness.

1. The proposed alteration, restoration, relocation or construction, in whole or in part, will not do any of the following.
  - a. Detrimentally change, destroy, or adversely affect any significant architectural feature of the resource.
  - b. Detrimentally change, destroy, or adversely affect the historic character or value of the resource.
  - c. Be incompatible with the exterior features of other improvements within the district.
  - d. Adversely affect or detract from the character of the district.
2. The applicant has obtained a certificate of economic hardship, in accordance with Section 17.36.100.

F. **Infill development.**

1. New structures constructed within an historic district shall be designed to be compatible with the architectural style, features and historic character of the district.
2. New buildings shall be compatible with the original style of the contributing buildings within an historic district. The design of the new building shall incorporate the following considerations.
  - a. The design shall incorporate the design features and details of contributing structures.
  - b. The height, width, and length of the new building shall be consistent with the original characteristics of the contributing structures.
  - c. The exterior materials and treatment shall be similar to the contributing structures.

G. **Waivers.** When alterations, restorations, rehabilitations, remodeling and additions to historical resources are accomplished in substantial accord with the guidelines set forth in this Section, as determined by the City Historic

Preservation Officer, a certificate of appropriateness from the Historic Preservation Commission is not required prior to issuance of a building permit in the following cases.

1. Minor alterations. The CHPO may deem that certain alterations to historical resources are "minor." Those alterations may include but are not limited to the following, if no change in appearance occurs or the proposed change restores period features.
  - a. Roofing.
  - b. Foundation.
  - c. Chimney.
  - d. Construction, demolition or alteration of side, rear and front yard fences.
  - e. Landscaping, unless the property is designated as an historic landscape or the historic landmark or district designation specifically identifies the landscape, layout, features, or elements as having particular historical, architectural, or cultural merit.
  - f. Wall or monument signs.
2. Additions and accessory structures. A waiver may be issued for the construction of accessory structures or small additions to historical resources not visible from a public right-of-way, if the new construction is accomplished in substantial accord with the design guidelines set forth in this Section. New construction where a waiver can be issued may include, but is not limited to, the following, if the construction is consistent with the design guidelines.
  - g. Additions under 500 square feet.
  - h. Accessory structures.

### **17.36.100 – Certificates of Economic Hardship**

A certificate of economic hardship process is established to ensure that denial of a certificate of appropriateness does not impose undue hardship on the owner of a historical resource.

A. **General requirements.** No action shall be taken to demolish or otherwise alter an historical resource for a period of 14 days following the issuance of a certificate of economic hardship.

**B. Applications.**

1. All applications shall be filed with the City Historic Preservation Officer. The applicant is encouraged to confer with the CPHO before submittal of the application.
2. An application for a certificate of economic hardship shall include the following information. Private financial information shall be maintained in confidence by the City.
  - a. Cost estimates for the proposed construction, addition, alteration, demolition or relocation, and an estimate of additional costs that would be incurred to comply with the recommendations of the Historic Preservation Commission for issuance of a certificate of appropriateness.
  - b. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation, as to the structural soundness of any structures on the property and their suitability for rehabilitation.
  - c. The estimated market value of the property in its current condition.
  - d. The estimated market value of the property after completion of the proposed construction, alteration, demolition, or relocation.
  - e. The estimated market value of the property after any condition recommended by the Commission;
  - f. In the case of demolition; the estimated market value of the property after renovation of the existing property for continued use.
  - g. In the case of demolition; an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional with experience in rehabilitation, as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
  - h. For income-producing properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.

- i. The remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.
- j. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
- k. The amount paid for the property if purchased within the previous 36 months; the date of purchase; and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
- l. Any listing of the property for sale or rent, including the prices asked and offers received, if any occurred within the previous two years.
- m. Any other information considered necessary by the Commission to determine whether or not the property does or may yield a reasonable return to the owners.
- n. Required fees.

**C. Procedures.** Applications for a certificate of economic hardship shall be processed in accordance with the procedures listed in Chapter 17.60.

**D. Findings of fact.** One or more of the following findings are required for the approval of a certificate of economic hardship.

1. Denial of the application will diminish the value of the subject property, so as to leave substantially no value or otherwise work a taking of the property under the U.S. or State Constitution.
2. Sale or rental of the property is impractical, when compared to the cost of holding such property for uses permitted in the zone.
3. An adaptive reuse study has been conducted and found that lawful use of the property is impractical.
4. Rental at a reasonable rate of return is not feasible.
5. Denial of the certificate of appropriateness would damage the owner of the property unreasonably, in comparison to the benefits conferred on the community.

6. All other means involving City-sponsored incentives, such as transfer of development rights, tax abatements, financial assistance, building code modifications, changes in the zoning ordinance, loans, grants and reimbursements, have been explored to relieve the asserted economic hardship.

#### **17.36.110 - Conservation Plan**

**A conservation plan process is established to expedite review of certificates of appropriateness for proposed work on multiple historical resources in a project area.**

- A. **Contents.** A conservation plan should identify the proposed work to be completed within the plan area, any work requiring further review, the structures covered by the plan, and other information reasonably required by the City Historic Preservation Officer to facilitate review of the proposed plan.
- B. **Procedures.** A conservation plan shall be evaluated under the procedures and standards established by this Chapter for a certificate of appropriateness.
- C. **Amendments.** Conservation plans may be amended with the approval of the City Council, upon a recommendation by the Historic Preservation Commission.
- D. **Findings of fact.** Approval of a conservation plan shall require findings that the proposed alterations, restorations, relocations or construction within the plan area will not, in whole or in part, do any of the following.
1. Detrimently change, destroy, or adversely affect any significant architectural feature of historical resources.
  2. Detrimently change, destroy, or adversely affect the historic character or value of historical resources.
  3. Be incompatible with the exterior features of other improvements within the plan area.
  4. Adversely affect or detract from the character of the plan area.

#### **17.36.120 – Demolition of Historic Structures (Certificates of Appropriateness)**

A certificate of appropriateness process is established for demolitions to ensure that any demolition of an historic resource complies with the requirements of this Chapter and CEQA guidelines to mitigate the impacts of demolition.



**A. General requirements.**

1. A certificate of appropriateness is required for any demolition, in whole or in part, of an historical resource.
2. No permit shall be issued for demolition of an historic resource until a certificate of appropriateness has been issued in accordance with the provisions of this Section.
3. Once a certificate of appropriateness has been issued the City Historic Preservation Officer shall, from time to time, inspect the work to ensure compliance with the approved certificate.

**B. Applications.**

1. All applications shall be filed with the CHPO. The applicant is encouraged to confer with the CHPO before submitting the application.
2. All applications shall include the following information.
  - a. Plans and specifications showing the proposed exterior appearance of the project site following demolition, and any proposed new construction.
  - b. Materials and colors to be used on the exterior of structures on the site following the proposed demolition.
  - c. Relationship of the proposed work to the surrounding environment, if necessary.
  - d. Relationship of proposed new construction to the existing scale, massing, architectural style, site and streetscape, landscaping and signage in an historic district.
  - e. Any other information the CHPO reasonably determines to be necessary for review of the proposed work.
  - f. Required fees.

**C. Procedures.** Applications for certificates of appropriateness shall be processed in accordance with Chapter 17.60.

**Review for significance.** Properties determined to be potential historical resources, but not yet designated as landmarks or contributing resources to an historic district, shall be evaluated for significance in conjunction with any

application for demolition. The City Historic Preservation Officer shall review the property for significance and determine its eligibility for listing on the National Register of Historic Places, the California Register of Historical Resources, or local designation in conjunction with the certificate of appropriateness. The review may include, but is not limited to, a historical resources survey at the intensive level in accordance with standards set forth by the Office of Historic Preservation. The Historic Preservation Commission shall make any determination of significance, subject to appeal to the City Council pursuant to Chapter 17.74.

**D. Findings of fact.** One of the following findings shall be made prior to approval of a demolition application.

1. The proposed demolition, in whole or in part, is necessary because of both of the following.
  - a. All efforts to restore, rehabilitate, and/or relocate the resource have been exhausted.
  - b. Restoration or rehabilitation is not practical because the extensive alterations required would render the resource not worthy of preservation.
2. The applicant has obtained a certificate of economic hardship in accordance with Section 17.36.100.

**E. Mitigation measures.** Prior to the issuance of a permit to demolish an historic resource in accordance with this Section, the following mitigation measures must be completed.

1. Documentation. Each historic structure shall be documented to provide a record of the buildings. Plans shall include, but are not limited to, a site plan; floor plans; elevations; and detailed drawings of character-defining features such as moldings, stairs, etc. Photographs shall include the structure's exterior and interior, and include relevant character-defining features such as moldings, light fixtures, trim patterns, etc.
2. Replacement structures.
  - a. A certificate of appropriateness shall not be issued for the demolition, in whole or in part, of an historical resource, until the City Historic Preservation Officer or the Planning Commission has approved a site plan for (a) replacement structure(s).

b. No permit shall be issued for the demolition, in whole or in part, of an historical resource, until a permit has been issued for (a) replacement structure(s), unless demolition is required in conformance with Section 17.36.230.

3. Salvaged features and artifacts. In an effort to preserve features and artifacts from historic structures, a determination whether items within or appurtenant to the building should be salvaged shall be made by the City Historic Preservation Officer, who may consult the Calabasas Historical Society prior to the issuance of the demolition permit.

F. **Waiver of replacement structure requirement.** The Historic Preservation Commission, upon the recommendation of the City Historic Preservation Officer, may waive the requirement for replacement structures if the ultimate project proposed for the site of the demolition provides an exceptional benefit to the community.

1. Findings. The following findings must be made to waive the replacement structure requirement.

a. The demolition is necessary to allow for the acquisition and assembly of land for a future redevelopment or housing project.

b. The future project will provide exceptional benefits to the City with respect to employment, fiscal, social, housing and economic needs of the community; or will provide new public facilities which are needed by the City (i.e., off-site improvements, parks, open space, recreation, or other community facilities, not including parking lots).

2. Conditions of approval. When the Historic Preservation Commission approves a waiver of the replacement structure requirement, the following conditions shall be applied to the approval.

a. Any new project on the site shall follow the process for a certificate of appropriateness for a historic landmark or district.

b. Any new project on the site shall follow the infill guidelines listed in Section 17.36.090(F), to ensure compatibility with the surrounding area or neighborhood.

### **17.36.130 – Time Extensions for Certificates of Appropriateness**

A certificate of appropriateness shall lapse and become void twelve (12) months after the date of approval, unless a building permit (if required) has been issued,

work authorized by the certificate of appropriateness has commenced prior to such expiration date, and said work is diligently pursued to completion. Upon request of the property owner and a showing of delays due to no fault of the applicant, or a showing of reasonable diligence by the applicant, the City Historic Preservation Officer Director may extend a certificate of appropriateness for an additional period of twelve (12) months. The CHPO may approve, approve with conditions, or deny any request for extension.

#### **17.36.140 – Revocation of Certificates of Appropriateness and Economic Hardship**

- A. A certificate of appropriateness or a certificate of economic hardship may be revoked or modified following notice to the applicant and property owner and a hearing pursuant to Chapter 17.78, upon a finding by the Historic Preservation Commission that the applicant or property owner is responsible for any of the following.
1. Noncompliance with any terms or conditions of the certificate.
  2. Noncompliance with any provision in this article.
  3. Fraud or misrepresentation in the obtaining of the certificate.
- B. **Procedures.** Revocation proceedings may be initiated by a dated writing signed by the secretary of the Historic Preservation Commission, who shall give notice of the potential revocation to the applicant and the property owner by certified mail. Upon receipt of such notice, the applicant and property owner, and their agents and contractors, shall cease all work pursuant to the certificate until a final determination by the Commission can be made, unless the secretary provides written authorization for specified work to secure the project site and protect historic resources pending a Commission decision.
1. A proposal to revoke a certificate shall be scheduled for the next Historic Preservation Commission meeting, allowing for public noticing pursuant to Chapter 17.78.
  2. The Historic Preservation Commission shall determine whether or not to revoke the certificate within 60 days of initiation of the proceedings.
  3. The applicant shall be notified of the Commission's decision by mail within ten (10) days.

## 17.36.150 – The Mills Act

A Mills Act contract process is established to provide economic incentives for the preservation of a designated historic landmark or contributing structure within a designated historic district.

- A. **General requirements.** All designated historic landmarks, contributing structures in designated historic districts, and properties listed on the National Register of Historic Places or the California Register of Historical Resources, are eligible for Mills Act contracts, pursuant to the provisions of Article 12, Sections 50280 through 50289, Chapter 1, Part 1, Title 5, of the California Government Code.
- B. **Required provisions of a Mills Act contract.** All Mills Act contracts shall comply with Section 50281 of the California Government Code, which include, but are not limited to, the following provisions.
1. The term of the contract shall be for a minimum of 10 years.
  2. The applicant and property owner shall be required to comply during the term of the contract with the U.S. Secretary of the Interior's Standards for Treatment of Historic Properties with guidelines for preserving, rehabilitating, restoring and reconstructing historic buildings, as well as the State Historic Building Code.
  3. The City shall be authorized to conduct periodic inspections to determine the applicant's and property owner's compliance with the contract.
  4. The contract shall be binding upon, and inure to the benefit of, all successors in interest to the owner and the applicant.
  5. The contract shall require written notice to the State Office of Historic Preservation within six months of execution of the contract.
- C. **Applications.** All applications shall be filed with the Community Development Department. The applicant is encouraged to confer with the department before submittal of the application. All applications shall include the following.
1. A copy of the latest grant deed for the property.
  2. A rehabilitation plan/maintenance list of the work to be completed within the 10-year contract period, including cost estimates and the year in which the work will be completed.

3. A financial analysis form showing current property taxes and estimated taxes for the property under a Mills Act contract.
  4. Required fees.
- D. **Procedures.** Applications for certificates of appropriateness shall be processed in accordance with Chapter 17.60.
- E. **Recordation.** The approved contract shall be recorded with the County Recorder within 20 days of approval.
- F. **Non-renewal.** A Mills Act contract shall be a perpetual, 10-year contract that automatically renews annually unless and until either party gives written notice to the other that the contract will not be renewed upon the expiration of its current term.
- G. **Cancellation.** A Mills Act contract may be cancelled or modified if the Historic Preservation Commission finds, after written notice to the applicant and the property owner, and a hearing pursuant to Chapter 17.78, either of the following conditions.
1. The owner or applicant is responsible for any of the following.
    - a. Noncompliance with any terms or conditions of the contract.
    - b. Noncompliance with any provision in this article.
    - c. Misrepresentation or fraud used in the process of obtaining the contract.
  2. The historic resource has been subject to either of the following.
    - a. Destroyed by fire, flood, wind, earthquake or other calamity, or the public enemy.
    - b. Taken by eminent domain.
- H. **Cancellation procedures.** Cancellation proceedings may be initiated by any member of the Historic Preservation Commission.
1. Once notice of possible cancellation has been given under Subsection (G) above, the proposed cancellation shall be scheduled for the next Commission meeting, allowing for public noticing requirements in conformance with Chapter 17.78.

2. The Commission shall make a recommendation to the City Council, which the Commission's secretary shall transmit to the Council and to the applicant and property owner by certified mail.
  3. The City Council, within 60 days of initiation of the proceedings, shall cancel or continue the contract.
  4. The Commission's secretary shall notify the applicant and the property owner of the City Council's decision by certified mail within 10 days.
- I. **Cancellation fee.** If a Mills Act contract is cancelled pursuant to Subsection (1) of Subsection (G) above, the property owner shall be liable to the City for a cancellation fee equal to 12 ½ % of the current fair market value of the property.

### **17.36.160 – Historic Rehabilitation Financing Program**

The Marks Historic Rehabilitation Act of 1976 was established by the State of California to allow cities and counties to provide long-term, low-interest loans to finance the preservation, restoration, and rehabilitation of historical resources. The City of Calabasas hereby establishes a historic rehabilitation financing program, in accordance with and subject to, the provisions of the Marks Historic Rehabilitation Act.

- A. **Rehabilitation area.** This area shall consist of all properties within the City.
- B. **Eligible structures.** Any property eligible for funding under this program must be located within a rehabilitation area as defined in Subsection (A) above, and must be a designated local historic landmark or landscape, a contributing structure to a designated local historic district, or listed or determined eligible for listing on the California Register of Historical Resources or the National Register of Historic Places.
- C. **Rehabilitation requirements.** Any property rehabilitated with funding from this program must meet the following requirements.
  1. **Rehabilitation standards.** Any rehabilitation must use the Secretary of the Interior's Standards for the Treatment of Historic Properties with guidelines for preserving, rehabilitating, restoring, and reconstructing historic buildings, as well as any local preservation and design guidelines adopted by the City.
  2. **Maintenance.** Any property rehabilitated with funding from this program must be maintained in good condition for a period of at least 10 years from the completion of the rehabilitation.

D. **Advisory board.** The City Council will establish an advisory board pursuant to and in accord with state law, if and when an application for funding under this Section is received by the City.

### 17.36.170 – Incentives for Historic Preservation

The following Section is provided to allow for incentives to be used to support the preservation, maintenance and appropriate rehabilitation of the City's designated historical resources.

A. **Eligible properties.** Preservation incentives shall be made available to owners of any of the following types of properties.

1. Properties listed on the National Register of Historic Places.
2. Properties listed on the California Register of Historical Resources.
3. Properties designated as local historic landmarks or landscapes.
4. Properties that are contributing structures in designated local historic districts.

B. **Eligible projects.** The following types of projects are eligible for preservation incentives. Any project listed below must comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and be approved by the Historic Preservation Commission.

1. Restoration or exterior rehabilitation that includes the restoration, repair or replacement, in kind, of significant architectural features.
2. Re-roofing with similar material, or repair and replacement of roofing, where the roof is a significant architectural feature.
3. Relocation to another site.
4. Restoration of designated interior spaces.
5. Seismic reinforcement or structural rehabilitation.
6. Replacement of building systems that will further the preservation of the historical resource.
7. Additions shall be eligible for development incentives only.



C. **Incentives.** The following incentives may be used for eligible projects as listed in Subsections (A) and (B) above.

1. **Economic and financial incentives.** The following incentives may be applied to a project approved by the Historic Preservation Commission, and subject to approval by the City Manager.

- a. Approval of a Mills Act contract pursuant to Section 17.36.150.
- b. Approval of funding through the historic rehabilitation financing program, as prescribed in Section 17.36.160.
- c. Grants or loans through other City funding sources, including but not limited to housing funds.
- d. Preservation easements.
- e. Reduction or elimination of building plan-check or permit fees.
- f. Reduction or elimination of development-impact fees.
- g. Reduction or elimination of any other applicable City fees.
- h. Federal Rehabilitation Tax Credits (applied through the California Office of Historic Preservation).

2. **Development incentives.**

- a. State Historic Building Code.
- b. Parking variances. For single family residences, the zoning requirement for two parking spaces within an enclosed garage when adding floor area shall be waived, if an existing one-car garage contributes to the significance of the property and/or district and is in good condition or, if deteriorated, will be returned to good condition as part of work to add new living space to the residence.
- c. Setback reduction. Reductions in required setbacks or height requirements may be granted when a reduction allows for the restoration of a character-defining feature, or allows for character-defining features to be replicated in additions to historic structures. In no case shall a reduction in a setback be granted when the reduction will cause an adverse affect to the property or cause an adverse affect to the character of the neighborhood or district.

### **17.36.180 – State Historic Building Code**

The California State Historic Building Code (SHBC) provides alternative building regulations for the rehabilitation, preservation, restoration, or relocation of structures surveyed and identified as historical resources. The SHBC shall be used in evaluating any building permit for work affecting an historical resource.

### **17.36.190 – Preservation Easements**

Preservation easements on the facades of buildings designated as historical resources may be acquired by the City, or on the City's behalf, by a nonprofit group designated by the City through purchase, donation, or condemnation pursuant to California Civil Code Section 815.

### **17.36.210 – Duty to Keep in Good Repair**

In addition to any duty of maintenance established by another provision of this Code or other applicable law, the owner or other person in possession of an historical resource has a duty to keep in good repair all of the exterior features of said resource, and all interior features thereof which, if not maintained, may cause or tend to cause the exterior features of said resource to deteriorate, decay, become damaged or fall into a state of disrepair.

- A. All historical resources shall be preserved against such decay and be kept free from structural defects through the prompt repair of any of the following.
1. Facades which may fall and injure a member of the public or property.
  2. Deteriorated or inadequate foundations, defective or deteriorated flooring or floor supports, and deteriorated walls or other vertical structural supports.
  3. Members of ceilings, roofs and roof supports or other horizontal members which age, split or buckle.
  4. Deteriorated or insufficient waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
  5. Defective or insufficient weather protection for exterior walls, including lack of paint or weathering due to lack of paint, or other protective covering.
  6. Any fault or defect in the building, which renders it not watertight or otherwise structurally unsafe.
- B. A certificate of appropriateness shall not be issued for the demolition of an

historical resource because of the failure of the owner to comply with this Section.

C. It shall be the duty of the City's building officials to enforce this Section.

#### **17.36.220 – Ordinary Maintenance and Repair**

Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this Chapter that does not involve a change in design, material, or external appearance thereof.

#### **17.36.230 – Unsafe or Dangerous Conditions**

Nothing contained in this Article shall prohibit the construction, alteration, restoration, demolition or relocation of any historical resource, when such action is required for public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code.

The Community Development Department shall, upon the assessment and recommendation of the City's Building Official, certify that such a condition exists and inform the Historical Preservation Commission of that determination. Upon such certification, a certificate of appropriateness shall not be required for work within the scope of this Section.

#### **17.36.240 – Enforcement and Penalties**

- A. Any person who violates a requirement of this Ordinance, fails to obey an order issued by the Historic Preservation Commission, or fails to comply with a condition of approval for any certificate or permit issued under this article, shall be guilty of a misdemeanor punishable pursuant to Section 1.16.020(A) of this Code.
- B. Any alteration or demolition of an historical resource in violation of this Article is expressly declared to be a nuisance and shall be abated by restoring or reconstructing the property to its original condition prior to the violation. Any person or entity who demolishes, or substantially alters or causes substantial alteration or demolition of, a structure in violation of the provisions of this Article, shall be liable for a civil penalty pursuant to Subsection (D) below and/or Chapter 1.17, as well as any other criminal or civil remedies authorized by this Code or other law.
- C. Alteration or demolition of an historical resource in violation of this chapter shall authorize the City to issue a temporary moratorium for the development of the

subject property for a period not to exceed 24 months from the date the City becomes aware of the alteration or demolition. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration or removal of the historic structure, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures as determined by the City Historic Preservation Officer shall be imposed as conditions of any subsequent permit for development of the subject property.

- D. In the case of demolition, the civil penalty authorized by Subsection (B) above shall be equal to one-half the assessed value of the historical resource prior to the demolition. In the case of alteration, the civil penalty authorized by Subsection (B) above shall be equal to one-half the cost of restoration of the altered portion of the historical resource. Building and construction permits and/or a certificate of occupancy may not be issued for additional work on the property (other than work pursuant to Section 17.36.230) until the penalty has been paid in full to the City.
- E. In addition to any other remedies available at law or in equity, the City Attorney may maintain an action for injunctive relief to restrain a violation, or cause, where possible, the complete or partial restoration, reconstruction or replacement of any structure demolished, partially demolished, altered or partially altered in violation of this Article.

#### **17.36.250 – Historic Preservation Guidelines**

In order to ensure that Calabasas' historic buildings are preserved for future generations, the Historic Preservation Commission may recommend guidelines for adoption by the City Council to assist owners in the preservation, rehabilitation, protection and maintenance of historic buildings. Any guidelines shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with guidelines for preserving, rehabilitating, restoring and reconstructing historic buildings.

- A. **Secretary of the Interior's Standards for the Treatment of Historic Properties.** Any proposed work on an historical resource should follow the intent of the Secretary of the Interior's Standards for the Treatment of Historic Properties with guidelines for preserving, rehabilitating, restoring and reconstructing historic buildings. These standards were developed by the federal government to set up very broad, general philosophical principles regarding work done to historic properties. Any proposed work should follow these general principles while meeting any guidelines adopted by the Historic Preservation Commission.

**SECTION 6** In view of all of the evidence and based on the foregoing findings and conclusions, the City Council amends Chapter 17.90 to include the following definitions:

**Alteration** shall mean any exterior change or modification, through public or private action, to the character-defining or significant physical features of properties affected by Chapter 17.36. Such changes may be changes to or modifications of the structure, architectural details or characteristics, rock curbs, the addition of new structures, cutting or removal of trees, and the placement or removal of significant objects such as signs, plaques, light fixtures, street furniture, walls, fences, or steps, affecting the significant, historical qualities of the property.

**Certificate of Appropriateness** shall mean a certificate issued by the Historic Preservation Commission approving such plans, specifications, statements of work, and any other information which are reasonably required by the Commission to make a decision on any proposed alteration, restoration, rehabilitation, construction, removal, relocation or demolition, in whole or in part, or to a historical resource.

**Certificate of Economic Hardship** shall mean a certificate issued pursuant to Section 17.36.090 or 17.36.120 of this Chapter.

**Certified Local Government (CLG)** shall mean a local government certified under a federal program by the State Office of Historic Preservation for the purpose of more direct participation in federal and state historic preservation programs.

**Contributing Resource** shall mean any Improvement, building, structure, sign, feature, tree, or other object adding to the historical, architectural, or cultural significance of a district.

**Demolition** shall mean, for purposes of Chapter 17.36 of this Title, any act or process that destroys in part or in whole an individual historical resource, or a structure within a historic district.

**Design Guidelines** shall mean for purposes of Chapter 17.37 of this Title, the principles contained in a document which illustrate appropriate and inappropriate methods of rehabilitation and construction. The purpose of using design guidelines is to aid design and decision-making with regard to retaining the integrity of scale, design, intent, materials, feelings, patterns of development, and historical character of a historical resource.

**Designated Site** shall mean a parcel or part thereof on which an historical resource is situated, including any abutting parcel or part thereof constituting part of the premises on which the historical resource is situated, which has been designated a historic landmark or district pursuant to this Ordinance.

**Historic District** shall mean any district designated pursuant to Section 17.36.050(C) or (E).

**Historic Landmark** shall mean any landmark designated pursuant to Section 17.36.050(B) or (E).

**Historic Landscape** shall mean any landscape district designated pursuant to Section 17.36.050(D).

**Historical Resources** shall mean improvements, buildings, structures, signs, features, historic districts, conservation zones, trees, or other objects of cultural, architectural, or historical significance to the citizens of Calabasas and the State of California, the Southern California region, or the nation, which have been determined to be eligible for nomination or designation by the Historic Preservation Commission, or by the City Council on appeal, pursuant to the provisions of Chapter 17.36.

**Improvement** shall mean, for purposes of Chapter 17.36, any building, structure, fence, gate, tree, wall, or other specified object constituting a historical physical feature of real property, or any part of such feature.

**Mills Act Contract** shall mean a property contract entered into between the City and a property owner that provides for lower property taxes in return for the rehabilitation, restoration, and preservation of a qualified historical property pursuant to California Government Code Section 50280, et. seq.

**Non-Contributing Resource** shall mean, for purposes of Chapter 17.36, any improvement, building, structure, sign, feature, tree, or other object that does not add to the historical, architectural, or cultural significance of a district.

**Object** shall mean, for purposes of Chapter 17.36, a material thing of historical, cultural, or architectural value.

**Ordinary Maintenance and Repair** shall mean, for purposes of Chapter 17.36, any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof, and to restore the same to its condition prior to the occurrence of such deterioration or damage.

**Preservation** shall mean, for purposes of Chapter 17.36, the identification, study, protection, restoration, rehabilitation, or acquisition of historical resources.

**Secretary of the Interior Standards for the Treatment of Historic Properties** shall mean the most current version of the standards and guidelines prepared by the National Park Service for the preservation, rehabilitation, restoration and reconstruction of historic buildings.

**Significant Feature** shall mean, for purposes of Chapter 17.36, the man-made elements embodying the style or components of an improvement, including but not limited to the kind and texture of the building materials, and the type and style of windows, doors, lights, signs, and other fixtures appurtenant to such improvement.

**State Historic Building Code** shall mean Part 2.7 of the California Health and Safety Code, commencing with Section 18950, and the regulations promulgated thereunder, as they may be amended from time to time (California Code of Regulations, Title 24, Part 8).

**SECTION 7.** In view of all of the evidence and based on the foregoing findings and conclusions, the City Council amends Section 17.18.040 to include a paragraph F as Follows:

F. Historic properties within a scenic corridor. A permit shall not be required under this Section when property in the scenic corridor also requires a certificate of appropriateness or other permit under the City's Historic Preservation Ordinance (Chapter 17.36). In addition, any guidelines adopted for the scenic corridor shall only apply if those guidelines do not conflict with any preservation or design guidelines established for historic properties or any provision of the Historic Preservation Ordinance.

**SECTION 8.** All documents described in Section 1 of this ordinance are deemed incorporated by reference as set forth at length.

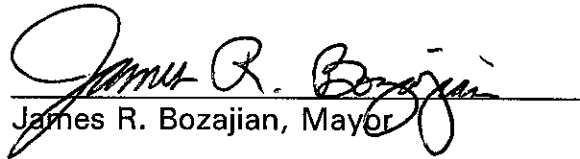
**SECTION 9. SEVERABILITY.** If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of 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 10. 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 11. EFFECTIVE DATE.** This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

**SECTION 12. 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 2<sup>nd</sup> day of January 2008.

  
James R. Bozajian, Mayor

ATTEST:

  
Robin Parker, City Clerk

APPROVED AS TO FORM:

  
Michael G. Colantuono, City Attorney



STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS  
CITY OF CALABASAS )

I, **ROBIN PARKER**, City Clerk of the City of Calabasas, California, **DO HEREBY CERTIFY** that the foregoing ordinance, being **Ordinance No. 2008-241** was duly adopted by the City Council of the City of Calabasas, at a regular meeting of the City Council held January 2, 2008 and that it was adopted by the following vote, to wit:

AYES: Mayor Bozajian, Mayor pro Tem Maurer, Councilmembers Groveman, Washburn and Wolfson.

NOES: None.

ABSTAIN: None.

ABSENT: None.



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Robin Parker, City Clerk  
City of Calabasas, California