

ORDINANCE NO. 2005-225

AN ORDINANCE OF THE CITY OF CALABASAS TO PROTECT OPEN SPACE IN THE CITY BY REQUIRING VOTER APPROVAL OF ANY REDESIGNATION OF LANDS DESIGNATED AS OPEN SPACE IN THE CALABASAS GENERAL PLAN, AMENDING THE CALABASAS MUNICIPAL CODE, AND RE-ADOPTING THOSE PROVISIONS OF THE CALABASAS GENERAL PLAN DESIGNATING PROPERTY IN THE CITY AS OPEN SPACE

THE PEOPLE OF THE CITY OF CALABASAS DO ORDAIN AS FOLLOWS:

SECTION 1. PURPOSE AND FINDINGS

The purpose of this ordinance is to protect, preserve and enhance the existing open space in the City of Calabasas. The People of the City of Calabasas hereby find that the remaining areas of open space in the City are a precious resource in an increasingly urban society. The prevalence of open space in Calabasas contributes greatly to the quality of life of the community. Accordingly, the objectives of this ordinance are:

- (a) To preserve open space in the City, and to allow only such low-intensity uses of such land as are consistent with the General Plan, applicable Specific Plans and the City's zoning ordinance.
- (b) To encourage the preservation of natural resources, agriculture, and private and public outdoor recreational uses permitted in open space areas by State and local law;
- (c) To maintain the character of the City;
- (d) To reserve to the voters of the City the ultimate determination whether open space land should be converted to other uses.

The People of Calabasas hereby find that the preservation of existing open space in the City and open space acquired or designated in the future is necessary to protect the quality of life in the City. As undeveloped land becomes scarcer, urban encroachment into remaining open space areas constitutes a threat to the public health, safety and welfare. This Ordinance serves the goals, policies and objectives of the General Plan relating to the preservation of open space by requiring voter approval before any land designated for open space use is redesignated for another use. The adoption of this measure is intended to be consistent with *DeVita v. County of Napa* (1995) 9 Cal.4th 763.

SECTION 2. READOPTION OF GENERAL PLAN DESIGNATIONS

The Land Use Map of the Calabasas General Plan adopted on September 6, 1995 by Resolution Number 95-346 and as amended through July 20, 2005 is hereby readopted.

SECTION 3. AMENDMENT, VOTER APPROVAL

The Calabasas Municipal Code is hereby amended to add a new Section 17.16.040 to read as follows:

“17.16.040 Voter Approval Required for Redesignation of Open Space for Non-Open-Space Use.

A. 1. No amendment to the General Plan or any Specific Plan that would redesignate for non-open space use of any property in the City designated OS-R or OS-RP by the Land Use Map of the Calabasas General Plan adopted on September 6, 1995 by Resolution Number 95-346 and as amended through July 20, 2005 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. To propose such an amendment, the city shall follow the procedures required by law, including the California Environmental Quality Act, Public Resources Code Sections 21000 et seq., for the adoption of the measure and then place the amendment on the ballot. Such an amendment may take effect only upon two-thirds approval of those casting votes on the question.

2. No amendment to the General Plan or any Specific Plan that would redesignate for non-open space use any property in the City designated PF-R by the Land Use Map of the Calabasas General Plan adopted on September 6, 1995 by Resolution Number 95-346 and as amended through July 20, 2005 shall be effective for any purpose without compliance with the applicable requirements of California law which protect park lands, including, but not limited to, Government Code Sections 25550.7, 37111, 37111.1, 38440 - 38462, 38501 - 38510 and Public Resources Code Sections 5400 et seq. If the applicable requirements of California law which protect park lands should be amended after November 8, 2005 to reduce or eliminate requirements for a supermajority Council vote or for a vote of the electorate of the City, then such supermajority Council vote or vote of the electorate shall continue to be required for the redesignation for non-open space use of property in the City designated PF-R by virtue of the Ordinance which adopted this subsection A.

B. Paragraph A. of this section shall not apply to:

1. Amendments determined by the City Council, on the advice of the City Attorney, to be necessary to avoid an unconstitutional taking of private property or otherwise required by law;

2. Reorganization, renumbering or updating elements of the General Plan in accordance with State law, provided that such actions do not reduce the property designated OS-R, OS-RP, and PF-R; or

3. Amendments which facilitate any of the following land uses: uses permitted in the PF land use district; uses in support of open space uses such as bus

shelters, parking facilities, and comfort stations; and public utility facilities such as antennae and pipelines.

C. Any land designated OS-R, OS-RP or PF-R after July 20, 2005 shall become subject to the requirements of this section upon such designation.

D. This section shall be of no further force and effect on and after November 8, 2030 unless it is sooner readopted, repealed or amended by the voters of the city.

SECTION 4. AMENDMENT OR REPEAL

(a) Except as authorized in Section 17.16.040(A)(2) of the Calabasas Municipal Code as set forth above or otherwise by this Ordinance, the provisions of this Ordinance and those portions of the Land Use Map of the Calabasas General Plan adopted on September 6, 1995 by Resolution Number 95-346 and as amended through July 20, 2005 which designate land in the OS-R, OS-RP and PF-R districts may be amended or repealed only by the voters of the City of Calabasas

(b) This measure shall not require voter approval of amendments with respect to any application for a land use entitlement deemed complete by the city prior to June 20, 2005 and pending on that date.

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 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 6. EFFECTIVE DATE. Pursuant to California Elections Code section 9217, this Ordinance shall take effect ten days after City Council certification of the results of the election at which it is adopted.

SECTION 7. CERTIFICATION. The Mayor is hereby authorized to subscribe this Ordinance where indicated below to evidence its adoption by the voters of the City and upon that subscription, the City Clerk shall certify to the passage and adoption of this ordinance and shall cause it to be posted according to law.

PASSED, APPROVED AND ADOPTED, this 8th day of November 2005.

Barry Groveman, Mayor

ATTEST:

Robin Parker, City Clerk

APPROVED AS TO FORM:

Michael G. Colantuono, City Attorney