

**Planning Commission
Recommendation Hearing
Historic Preservation Ordinance
Case No. 2016-092 OA -City Wide**

**PROPOSED CHANGES TO 17.43 BASED ON PUBLIC
COMMENTS RECEIVED**

10/25/21

Errata Sheet

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PROPOSED CHANGES TO 17.43 BASED ON PUBLIC COMMENTS RECEIVED

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SECTION H. Chapter 17.43 Archaeological and Tribal Cultural Resources is added to Title 17 as follows:

Chapter 17.43 Archaeological and Tribal Cultural Resources

Sections:

- 17.43.010 Purpose and Intent
- 17.43.020 Applicability
- 17.43.030 Site Assessment and Permit Requirements for Non-Exempt Development
- 17.43.040 Development Standards
- 17.43.050 Native American Communication

17.43.010 Purpose and Intent

The purpose of this Chapter is to establish standards for new development that is subject to discretionary or ministerial review and that could impact sensitive and protected Archaeological and/or Tribal Cultural Resources including sites, places, and landscapes of documented traditional cultural significance, within the City. This Chapter outlines the procedures and criteria for the identification and protection of these resources. Specifically, this Chapter is intended to:

- A. Preserve and protect Archaeological and/or Tribal Cultural Resources in accordance with PRC § 21084.3(b)(2), including:
 - 1. Protect the cultural character and integrity of the Archaeological and/or Tribal Cultural Resource.
 - 2. Protect the traditional use of the Archaeological and/or Tribal Cultural Resource.
 - 3. Protect the confidentiality of the Archaeological and/or Tribal Cultural Resource.
- B. Foster awareness, recognition, and stewardship of the City's Archaeological and/or Tribal Cultural Resources; and
- C. Protect, restore, and enhance significant Archaeological and/or Tribal Cultural Resources, such as native villages; seasonal campsites; burial sites; stone tool quarry sites; hunting sites; traditional trails; sites with rock carvings or paintings; documented sacred sites and places of traditional cultural value, as identified by local Tribes including areas traditionally used to gather plants for food, medicinal, or economic purposes; and objects, features, and artifact scatters, including agricultural, ranching,

mining, irrigation, utility, and transportation-related features (e.g., canals, fences, roads, refuse scatters, etc.).

17.43.020 Applicability

Unless exempted, new development that requires earth-disturbing activities shall be subject to the regulations and reporting requirements of this Chapter. This Section outlines the Exempt and Non-Exempt project types.

A. Exempt Development. The following development is exempt from the requirements of this Chapter unless development is determined to be subject to 17.43.020(B):

1. Earth-disturbing activities affecting four cubic feet or less of native soils unless located within a documented archaeological site and/or Tribal Cultural Resource.
2. Earth-disturbing activities that will not disturb native soils unless located within a documented archaeological site and/or Tribal Cultural Resource, including:
3. Ongoing, active agricultural operations in areas continuously used for crop cultivation.
4. A city infrastructure project that does not involve earth disturbance beyond the footprint of the existing facility.
5. A utility project within an existing road right-of-way that does not exceed the depth of the lowest utility line found within the affected block of road right-of-way were the project is located.
6. The proposed earth disturbing area is located within a previously disturbed area where evidence, as documented in as-builts plans, previous grading plans, or other documentary evidence, is provided that the previous earth disturbance affected depths equal to or greater than the development being considered; or
7. Interior alterations and improvements to existing structures that do not involve earth disturbing activities.
8. Proposed areas of earth disturbance of more than 4 cubic feet of native soils that meet at least one of the following criteria:

~~9.a.~~ Emergency Projects as defined by Public Resources Code §21060.3⁴ undertaken by the city, another public agency, or utility.

~~10.b.~~ A previous Preliminary Archaeological Assessment (PAA) or a Phase 1 Report was prepared within the last 5 (five) years by a Qualified Archaeologist that includes the proposed disturbance area and documents that there are no documented resources within the proposed earth disturbing area and the proposed earth-disturbing area has little to no potential to contain subsurface Archaeological and/or Tribal Cultural Resources.

B. Non-Exempt Development. The following development is not exempt and shall comply with the requirements of this Chapter.

1. Earth disturbing activities of any depth or size that is located within a documented archaeological site and/or Tribal Cultural Resource; and
2. Earth disturbing activities of more than four (4) cubic feet of native soils that is not located within a documented archaeological site and/or Tribal Cultural

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Resource and do not meet the exemptions listed above in subsection 17.43.020(A).

17.43.030 Site Assessment and Permit Requirements for Non-Exempt Development

A. Assessment Level Requirements. Non-exempt developments are subject to the following:

1. A PAA shall be required when the proposed earth disturbing area is located within a paved, developed, or ornamental landscaped area.
 - a. If the PAA reveals that the proposed disturbance area does not contain a documented Archaeological and/or Tribal Cultural Resource and the proposed area where earth disturbing activities are proposed has little or no potential to contain subsurface Archaeological and/or Tribal Cultural Resources as determined by the Qualified Archaeologist, no further review is necessary, and the development is subject to the permit outlined in subsection 17.43.030(B)(1).
 - b. If the PAA reveals that the proposed area where earth disturbing activities are proposed contains or potentially contains Archaeological and/or Tribal Cultural Resources as determined by the Qualified Archaeologist, then the development shall be subject to the requirements outlined in subsections 17.43.030(A)(3) and (B)(2).
2. A Phase 1 Report shall be required when the proposed earth disturbing area is located within an area that is not paved, developed, or is not located in an ornamental landscaped area. This applies even if the earth surface has sustained previous disturbances from grading, vegetation clearance, or other modifications.
 - a. If the Phase 1 report reveals that the proposed earth disturbance area does not contain a documented Archaeological and/or Tribal Cultural Resource and the proposed earth disturbance area has little or no potential to contain subsurface Archaeological and/or Tribal Cultural Resources, no further review is necessary and subject to the permit outlined in subsection 17.43.030(B)(1).
 - b. If the Phase 1 report reveals that the proposed earth disturbance contains or potentially contains Archaeological and/or Tribal Cultural Resources, then the development shall be subject to the requirements outlined in subsections 17.43.030(A)(3) and (B)(2).
3. An Extended Phase 1 Report shall be required, if it is determined in the judgment of Qualified Archaeologist when preparing a PAA or Phase 1 report, that Archaeological and/or Tribal Cultural Resources could be present. A local Chumash monitor shall be invited to observe the Extended Phase 1 field work at the applicant's expense.
 - a. If the Extended Phase 1 report reveals that the proposed earth disturbance area does not contain a documented Archaeological and/or Tribal Cultural Resource and the proposed earth disturbance area has little or no potential to contain subsurface Archaeological and/or Tribal Cultural Resources, no further review is necessary, and the development is subject to the permit outlined in subsection 17.43.030(B)(1).

- b. If the Extended Phase 1 report reveals that the proposed earth disturbance area contains or potentially contains Archaeological and/or Tribal Cultural Resources, then the development shall be subject to the permit requirements outlined in subsection 17.43.030(B)(2).

B. Permit Requirements. In addition to any other permits/approval needed pursuant to the provisions of Title 17, the following permits are required of non-exempt development:

1. Zoning Clearance. A Zoning Clearance shall be required for development subject to the site assessment provisions of 17.43.030(A)(1)(a), 17.43.030(A)(2)(a), 17.43.030(A)(3)(a)
2. Minor Conditional Use Permit. A Minor CUP is required for development on a site that has Archaeological and/or Tribal Cultural Resources as identified in subsection 17.43.030(A)(1)(b), 17.43.030(A)(2)(b), and 17.43.030(A)(3)(b).

17.43.040 Development Standards

- A. The following standards are applicable to all permits issued under this chapter:
 1. If unanticipated discovery of Archaeological and/or Tribal Cultural Resources occurs during earth disturbing activities, earth disturbing activities must be stopped immediately until a ~~City-Qualified Archaeologist can evaluate the significance of the Archaeological Resources pursuant to standards set forth in Council Resolution No. 08-40, Environmental Thresholds and Guidelines Manual as amended and/or local Chumash Tribal Representative can evaluate Tribal Cultural Resource, with input from the local Chumash Native American consultant/monitor on the interpretation and importance of the find, pursuant to standards set forth in the Council Resolution No. 08-40, Environmental Thresholds and Guidelines Manual as amended.~~ City-Qualified Archaeologist can evaluate the significance of the Archaeological Resources pursuant to standards set forth in Council Resolution No. 08-40, Environmental Thresholds and Guidelines Manual as amended and/or local Chumash Tribal Representative can evaluate Tribal Cultural Resource, with input from the local Chumash Native American consultant/monitor on the interpretation and importance of the find, pursuant to standards set forth in the Council Resolution No. 08-40, Environmental Thresholds and Guidelines Manual as amended.
 2. If human remains are uncovered as a result of earth-disturbing activities, work must stop immediately and the Planning and Environmental Review Department must be contacted, and the Applicant must follow the procedures identified by Public Resources Code § 5097.98.
 3. As applicable, recommendations identified in the Preliminary Archaeological Assessment, Phase 1 report, or Extended Phase 1 report and agreed upon by the City, must be implemented and printed on the approved building plans.
- B. For development that is subject to the Minor CUP requirement of subsection 17.43.030(B)(2), on-site monitoring by a qualified Archaeological Monitor and local Chumash Native American consultant/monitor shall be required for all grading, excavation, and site preparation that involves earth disturbing activity.

17.43.050 Native American Communication

Development that is subject to the requirements of this Chapter shall be subject to the following requirements.

- A. For all development requiring a Minor CUP and subject to California Environmental Quality Act review, the City shall consult with California Native American Tribes in accordance with Public Resources Code § 21080.3.1.

- B. For all development requiring ministerial approval for which a Preliminary Archaeological Assessment or a Phase 1 Report is prepared, the City will make the studies available to Native American Tribes upon request.

SECTION K. Chapter 17.73 List of Terms and Definitions of Title 17 is amended as follows:

The following terms are added to the List of Terms (Section 17.73.010) and to Definitions (17.73.020):

1. **Archaeological Resource.** An artifact, object, or site constituting material remains of past human life or activities.
2. **California Historical Resources Information System (CHRIS).** A system of records that consists of data from the California Office of Historic Preservation (OHP), Information Centers (ICs), and the State Historical Resources Commission (SHRC).
3. **California Register of Historical Resources (CRHR).** A State register that includes buildings, sites, structures, objects, and districts significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California that meet the criteria for designation in the CRHR as defined in Public Resources Code § 5020.1, as amended.
4. **California State Historical Building Code (SHBC).** Title 24, Building Standards, Part 8, California Code of Regulations.
5. **California Register of Historical Resources.** Buildings, sites, structures, objects, and districts significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California that meet the criteria for designation in the California Register as defined in California Public Resources Code Section 5020.1, as it may be amended.
6. **Character-Defining Features.** The essential physical features that convey why a building, structure, object, site, or Historic District is socially, culturally, or architecturally significant based on the applicable criteria for designation and when it was significant (period of significance).
7. **Contributor.** Any property located within a Historic District, which adds to the historic associations or historic architectural qualities for which the Historic District is significant; was present during the period of significance for the Historic District; and retains sufficient historic integrity to convey its significance. Contributors to designated Historic Districts are considered historic resources, as is the Historic District overall.
8. **Demolition.** When either: (1) more than 50 percent of the exterior walls of a building or structure are removed or are no longer necessary and integral structural components of the overall building; or (2) more than 50 percent of the exterior wall elements are removed, including, without limitation, the cladding, columns, studs, cripple walls, or similar vertical load-bearing elements and associated footings, windows, or doors. Existing exterior walls supporting a roof that is being modified to accommodate a new floor level or roofline will continue to be considered necessary and integral structural components, providing the existing wall elements remain in

place and provide necessary structural support to the building upon completion of the roofline modifications. Demolition as specifically applied to historic resources is destruction or alteration that is so extensive that significant character-defining features are lost, the historic character of a historic resource is completely removed and cannot be repaired or replaced, and the resource no longer retains sufficient integrity to convey its significance.

9. **Discretionary Review.** The review of a project that requires the exercise of judgment or deliberation and as distinguished from situations where the City merely has to determine whether there has been conformity with objective standards in applicable statutes, ordinances, or regulations. Discretionary Review includes review by a Review Authority on any of the following: Coastal Development Permits within the Appeals Jurisdiction, Conditional Use Permits, Demolition of a historic resource, Design Review and Overall Sign Plans reviewed by the Design Review Board, Development Plans, General Plan Amendments, Modifications, Government Code Consistency Determination, Specific Plans, Time Extensions, Variances, Zoning Ordinance Amendments, and Zoning Map Amendments.
10. **Earth-Disturbing Activities.** All activities that require disturbance of earth, dirt, ground, or soils (native and non-native soils), including but not limited to grading, grubbing, trenching, post-hole digging, and excavation for foundations, fencing, utilities, and other infrastructure.
11. **Exceptional Importance.** A measure of a property's importance within the appropriate historic context. The term may be applied to the extraordinary importance of an event or to an entire category of resources so fragile that survivors of any age are unusual. A property that has achieved significance within the past fifty years can be evaluated only when sufficient historical perspective exists to determine that the property is exceptionally important. The necessary perspective can be provided by scholarly research and evaluation and must consider both the historic context and the specific property's role in that context. In justifying exceptional importance, it is necessary to identify other properties within the geographical area that reflect the same significance or historic associations and to determine which properties best represent the historic context in question.
12. **Historic District.** A significant concentration, linkage, or continuity of properties united historically or aesthetically in a distinguishable way or in a geographically definable area that meet the criteria for designation. Historic Districts are composed of contributors and non-contributors.
13. **Historic Integrity.** The ability of an individual historic resource or Historic District to convey its significance, with consideration of the following aspects of historic integrity as defined by the National Park Service: location, design, setting, materials, workmanship, feeling, and association as defined below.
 - a. **Location** is the place where the historic property was constructed or the place where the historic event occurred.
 - b. **Design** is the combination of elements that create the form, plan, space, structure, and style of a property.
 - c. **Setting** is the physical environment of a historic property.

- d. **Materials** are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
 - e. **Workmanship** is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
 - f. **Feeling** is a property's expression of the aesthetic or historic sense of a particular period of time.
 - g. **Association** is the direct link between an important historic event or person and a historic property.
14. **Historic Landmark.** A building, structure, object, or site that has been officially designated through City Council action.
 15. **Historic Resource.** A Historic Landmark designated by the City Council, a Historic District and the identified contributors designated by the City Council, and any building, structure, object, or site listed in the City Historic Resources Inventory as adopted by the City Council.
 16. **Historic Resources Inventory (HRI).** The list of buildings, structures, objects, sites, Historic Districts and their contributors that are formally adopted by City Council Resolution.
 17. **Historic Resources Survey.** The systematic and standardized process conducted by a Qualified Preservation Professional, including historical research and field work, for identifying and gathering data on the City's potential historic resources for the purpose of evaluating the resources per City, State, and/or federal criteria.
 18. **Information Centers (ICs).** The official repository for a given county for cultural resources reports and site records as part of CHRIS.
 19. **National Register Of Historic Places.** The nation's official inventory of districts, sites, buildings, structures and objects significant in American history, architecture, archeology and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq., 36 C.F.R. Sections 60, 63).
 20. **Native American Consultant/Monitor.** A person who has been designated or authorized by a Chumash Native American Tribe to monitor construction activities and to serve as an on-site representative of the Tribe; has been trained to work around construction equipment; and has been trained to recognize potential Tribal Cultural Resources.
 21. **Native Soils.** The original (i.e., non-fill) sediments that have not been previously disturbed from past grading or excavation activities.
 22. **Non-Contributor.** Any property located within a Historic District which does not add to the historic associations or historic architectural qualities for which the Historic District is significant; was not present during the period of significance for the Historic District; or does not retain sufficient historic integrity to convey its significance. Non-contributors to designated Historic Districts are not considered historic resources.
 23. **Period Of Significance.** The length of time during which a property was associated with important events, activities, or persons, or attained the characteristics which qualify it for designation. A period of significance usually begins with the date when significant activities or events began at the property; this is often the date of

construction. A historic place may have multiple periods of significance, but those periods must be strictly demarcated by year.

24. **Phase 1 Report.** A study prepared by a ~~city~~-Qualified Archaeologist, that consists of an analysis of the property's potential for surface and buried Archaeological and Tribal Cultural resources and identification of the location, boundaries, and extent of any cultural resources located on the property, and a review of all of the following for the subject parcel and surrounding area: (1) city-wide archaeological sensitivity map; (2) environmental factors including geology; geomorphology; ecotones; water sources; availability and types of potentially exploited or used resources; and potential for caves, rock shelters, and mountain peaks; and (3) aerial photographs and historic maps to determine presence of other potential factors affecting the presence or absence of either a prehistoric or historical site (e.g., parcel is in a river bottom). A Phase 1 Report requires a records search with the appropriate IC for Santa Barbara County to identify documented Archaeological Resources and previous studies in and near the project site and requires on-site examination of the property by the Archaeologist, including a surface survey on foot.
25. **Phase 1 Report, Extended.** A report that includes all of the components of a Phase 1 Report, along with excavation of limited shovel test pits or other subsurface survey, as determined necessary by the Qualified Archaeologist for a complete analysis of the property to contain buried archaeological resources.
26. **Point Of Historical Interest.** A building, structure, object, or site that no longer exists or has been altered and therefore does not meet the criteria for designation as a Historic Landmark, but which was associated with historic events or important persons, or otherwise has significant cultural or historic associations; or is the site of a historic event which has no distinguishable physical characteristics.
27. **Preliminary Archaeological Assessment.** A site-specific report prepared by a ~~city~~-qualified Archaeologist to assess the potential for the project area to contain Archaeological and Tribal Cultural resources and will determine the necessity for a Phase 1 Report. The assessment includes a review of all of the following for subject parcel and surrounding area: (1) prior archaeological survey(s) and reports; (2) resources listed on or eligible for listing on the National Register of Historic Places and/or the CRHR; (3) known archaeological site(s) including distance to subject parcel, nature, and type; (4) city-wide archaeological sensitivity map; (5) environmental factors including geology; geomorphology; ecotones; water sources; availability and types of potentially exploited or used resources; and potential for caves, rock shelters, and mountain peaks; (6) known and potential historical resources including distance to subject parcel; nature; location relative to historical town core and historical transportation routes, including rail, road, and trails; potential for privies based on date of sewer line installation; and locations of structures and infrastructure assessed by inspection of historical map; and (7) aerial photographs and historic maps to determine presence of other potential factors affecting the presence or absence of either a prehistoric or historical site (e.g., parcel is in a river bottom).
28. **Preservation.** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic resource.
29. **Qualified Archaeologist.** A person who meets the minimum education and qualifications in archaeology, anthropology, or closely related field to qualify as a

Principal Investigator for Archaeology, as outlined in the Code of Federal Regulations, 36 CFR Part 61, has at least five years of professional archaeology experience in Santa Barbara County, and is familiar with the local Chumash culture.

30. **Qualified Archaeological Monitor.** A person who has a bachelor's degree in Anthropology, Archaeology, or related field; has at least one year of experience in conducting archaeological fieldwork in California and is experienced in the recognition of prehistoric and historic-age archaeological materials; has been trained to work around construction equipment; and who is actively supervised by a city-qualified Archaeologist.
31. **Qualified Preservation Professional.** A person who meets the minimum qualifications in history, archaeology, architectural history, architecture, or historic architecture as outlined in the Code of Federal Regulations, 36 CFR Part 61.
32. **Rehabilitation.** As it applies to historic resources, the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.
33. **Traditional Cultural Significance.** This refers to the value of a place or object for its aesthetic, historic, social, or spiritual value for past, present, or future generations. Traditional cultural significance is embodied in the place or object, its fabric, setting, use, association, and meaning and differs from scientific value.
34. **Tribal Cultural Resource.** Cultural Resources include Native American archaeological sites and area of natural landscape that have traditional cultural significance. Further, pursuant to Public Resources Code § 21074(a), a resource that consists of unique or non-unique sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe and that are:
 - a. Included in or determined to be eligible for inclusion in the California Register of Historical Resources (CRHR);
 - b. Included in a local register of historical resources; or
 - c. Determined by the lead agency, in its discretion and supported with substantial evidence, to be significant on the basis of criteria for listing in the CRHR after the lead agency takes into consideration the significance to the Tribe(s).