

CITY OF SAN JUAN CAPISTRANO

COUNCIL POLICY

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1. Intent and Purpose

- a. It is the general intent of the City Council to protect and preserve its unique heritage and valuable built historic, archaeological and paleontological resources within the community. In support of this specific goal the City has adopted an Historic Archaeological Element as a part of the City's General Plan.
- b. Since 1985, the City has conducted extensive archaeological studies in the immediate downtown area of the City which have resulted in the discovery of archaeological resources associated with the community's historic past. In response to these discoveries, the City Council has determined that it is necessary to establish specific procedures and polices to insure that significant historic resources, either known or discovered during construction, will be preserved as a community resource in the most financially equitable method.
- c. To establish administrative procedures for the preparation of site surveys by professionally qualified persons, i.e., with a specific field of expertise in conducting research and on-site surveys regarding potential historic, archaeological and paleontological resources.
- d. To establish review procedures to evaluate historic resource reports, including possible impacts to sites, structures, and artifacts and identification of potential mitigation measures or project alternatives.
- e. To adopt procedures to insure proper mitigation measures and monitoring are implemented during development to provide historic resource protection and preservation.
- f. To establish administrative procedures where all significant historic, archaeological and paleontological sites would be recorded with the City and with the proper corresponding research institution.
- g. To effect and accomplish the protection, enhancement and perpetuation of historically significant structures, sites, objects and historic districts which represent or reflect elements of the Nation's, State's and/or City's cultural, social, economic, political and architectural history.

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2. **Definitions** – The following definitions shall apply to certain terms included in this policy.

- a. ***Historic Resource*** – a district, site, building, structure or object significant in American history, architecture, engineering, archaeology or culture at the national, state or local level.
- b. ***Sensitive Area*** – an area that is located immediately adjacent to known sites, and/or an area that historic maps or reference materials indicates the presence of possible artifacts.
- c. ***Significant Historic or Cultural Resource*** – an artifact that can be associated with an event or person having a recognized significance in California or American history, or recognized as having scientific importance in the prehistory period, has a special or particular quality such as oldest, best example, or last surviving example of its kind; is at least 50 years old and possesses substantial stratigraphic integrity, or involves important research questions that historical research has shown can be answered only with archaeological methods.
- d. ***Significant Paleontological Site*** – an area where the presence of paleontological artifacts which have a particular scientific importance such as containing a complete species, or located in a unique stratigraphic location and/or geologic formation.

3. **Scope and Applicability of Council Policy**

The provisions of this policy shall apply to all activities including but not limited to proposed structures, expansions, additions, alterations, grading, excavation, trenching, and/or demolition on properties, premises, existing buildings and structures and their grounds or setting, trees and places classified as follows:

- a. Listed on the "Inventory of Historic and Cultural Landmarks" as adopted by City Council Resolution in accordance with Section 9-2.310 of the Municipal Code.
- b. Listed as a "State Register of Historic Landmarks" or on the "National Register of Historic Places".

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- c. Those historic resources which are determined by the Planning Director, the State Historic Preservation Officer, or the National Trust for Historic Preservation to be eligible for listing on the California Register of Historic Resources, the National Register of Historic Places, or the City's Inventory of Historic Resources according to the standards for inclusion on either the State, Federal or Local Registers.
- d. In cases where there exists a likelihood that significant historic resources once existed on the property as defined by the "sensitive area survey" as adopted by City Council Resolution.

4. Requirements

All development applications filed subject to the provisions of Title 9, Chapter 2, Administration and Procedures of the Municipal Code and satisfying the above criteria shall be required to submit a historic resource and/or paleontological report to the City as a part of their application submittal except as may be specifically exempted as identified below. A development application shall not be considered complete until said report as required by this chapter is submitted to the City.

The following applications shall be **exempt** from the requirements for submitting reports:

- a. Applications for property for which a previously prepared historic resources and/or paleontological resources report has been accepted by the City, provided that there were no significant errors in methodology or the information presented as determined by the City's Environmental Administrator and the application complies with any applicable mitigation requirements.
- b. Projects which require a permit application and which will not excavate (1) deeper than 18 inches, (2) more than 50 cubic yards of earth, or (3) the Planning Director makes a determination that the geologic strata will not yield subsurface artifacts are exempt from submitting a historic resource or paleontological report unless there is a previously identified historic resource on the site; or the Planning Director makes a determination that a potential historic resource exists on the project; or in the instance of paleontological resources, a survey has already been completed and a report prepared.

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If the Planning Director determines that the proposed project could potentially affect a known or suspected historic resource adjacent to the project site, then the applicant will be required to submit a historic resource report in order to determine the potential impacts to the historic resource.

- c. Projects that are limited to repair and maintenance of existing facilities and utilities.

5. Administration of Report Preparation

Preparation of archaeological and paleontological reports shall be the responsibility of the applicant. The applicant shall only use certified archaeologists and paleontologists in accordance with the provisions below for reports on historic resources and/or paleontological reports. For reports on built historic resources, the Planning Director must approve of the consultant who will prepare that portion of the historic resources report based on their qualifications in the field of historic preservation.

6. Qualifications for Report Preparation

Reports shall be prepared by individuals or organizations having the following qualifications:

- a. Persons qualified to prepare the preliminary archaeological survey and report shall be certified by the County of Orange and the Society of Professional Archaeologists in the appropriate category of expertise (e.g., field research, historical archaeology, etc.). A list of qualified professionals and their certified categories of expertise is on file with the Department of Planning Services.
- b. Persons qualified to prepare the preliminary paleontological survey and report shall be certified by the County of Orange. A list of qualified professionals is on file with the Department of Planning Services.
- c. Persons qualified to prepare the preliminary historic resources for non-archaeological resources must be approved by the Department of Planning Services based on the submittal of their qualifications to prepare such reports consistent with the Secretary of the Interior's guidelines for historian and architectural historian.

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7. Report Contents

Historic Resource and/or Paleontological Reports shall include the following information:

- a. Document is to be clearly signed by the individual author or authors and dated.
- b. The report shall contain a clear map delineating project/study boundaries.
- c. The report shall include location of specific sites, features, isolates, and structures described within the report. The mapped location of archaeological sites is confidential information, not to be released for public view; it is to be provided to the City as a separable Appendix to the main report, or on a separate sheet.
- d. Reports shall include archaeological record or isolate form (DPR 422) for each site, complete with area map, site map, and trinomial, and form DPR 523 for each historic structure.
- e. The report shall quantify all historic resource and/or paleontological materials observed on the property.
- f. The report shall identify the place from where historic resource and/or paleontological material was collected, or excavated, and presently curated.
- g. The report shall identify the name of all crew persons including supervisors and laboratory personnel involved in the site survey or report preparation.
- h. The report shall include the dates of field survey or excavation; length of time expended on methods and intervals used in the survey; any limitations on ground coverage or visibility; sources of background information; criteria used in evaluating the property.

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- i. The report shall include photographs of the potential historic resource or paleontological material, as directed by the Planning Director and any other information required by the Planning Director, the Environmental Administrator or any City Commission which is delegated responsibility to review historic resource or paleontological reports as part of their consideration in making decisions on development or project applications.
- j. Reports shall identify principal investigators, authors, those responsible for directing field work qualified to render such services.
- k. The report shall follow defined orderly process, i.e., inventory (background research and survey), testing methods and results (if necessary), evaluation of significance by defined criteria, and recommendations for potential mitigation measures or project alternatives.

8. Review Process

All development applications subject to the provisions of this policy shall be reviewed in the following manner in order to effectively evaluate significant historic resources and/or paleontological materials that may or may not exist on the project site:

- a. The applicable preliminary report shall be submitted to the Environmental Administrator as part of the responsibility to insure compliance with the California Environmental Quality Act and referral to City boards/commissions. The Environmental Administrator may take the following actions:

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- (1) If the report recommends and the City's Environmental Administrator concurs that no significant historic resources are present, or in the case of a paleontological report that no surface findings were identified in the preliminary site survey, the Environmental Administrator shall require that the project comply with on-site Monitoring and Mitigation Enforcement (see section below). If referral to Cultural Heritage Commission is not required, the Chairman or designate shall be notified of the Environmental Administrator's action. If the Chairman of the Cultural Heritage Commission or designated person determines that the report indicates that a historic resource may be potentially impacted by the proposed project, then a written request for reconsideration shall be submitted within seven (7) days of the Administrator's action.
- (2) If additional work is necessary or artifacts are present as noted in the report, said report (as amended if additional work is conducted) shall be referred to the Cultural Heritage Commission and considered in accordance with the provisions of Section 8 following.
 - b. If the preliminary report is referred by the Environmental Administrator to the Cultural Heritage Commission, said documents shall be reviewed and considered by the Commission. The Commission's recommendation shall be forwarded to the Planning Commission as part of their overall review of the development application.
 - c. The Planning Commission, in reviewing the development proposal, shall evaluate the report and recommendation from the Cultural Heritage Commission and if the Planning Commission determines it necessary, shall incorporate mitigation conditions for a project in order to preserve any known or identified significant cultural resource. In taking said action the cost of these mitigation measures shall not exceed the limitations identified in the adopted CEQA Guidelines, Appendix K as follows:
 - (1) One half of one percent ($\frac{1}{2}\%$) of the projected cost of the project if the project is a commercial or industrial project.
 - (2) Three-fourths of one percent of the projected cost of the project for a housing project consisting of one unit.

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(3) If a housing project consists of more than one unit, three-fourths of one percent of the projected cost of the first unit plus the sum of the following:

- (i) \$200.00 per unit for any of the next 99 units,
- (ii) \$150.00 per unit for any of the next 400 units,
- (iii) \$100.00 per unit for units in excess of 500 units.

d. Any conditions or mitigation measures required by the Planning Commission shall be forwarded to the Building and Safety Division and enforced in accordance with Section 21081.6 of the California Public Resource Code.

e. Decision of the Cultural Heritage Commission, the Planning Commission or the Environmental Administrator may be appealed to the City Council in accordance with Section 9-2.314 of the Municipal Code.

f. All site records and survey, tests, and mitigation reports shall be filed with the South Central Coastal Information Center at UCLA.

9. On-Site Monitoring and Mitigation Enforcement for Historic Resources (Archaeology/Historic Structures)

a. The Building and Safety Division shall be provided with an executed consultant services contact with the individual responsible for supervising on-site monitoring (from approved list of qualified archaeologists supplied by the City). In instances, due to known or expected existence of subsurface Native American historic resources, the consulting archaeologist may request that a Native American Monitor be present on-site during grading operations.

b. Services for retaining Native American Monitors shall be in accordance with applicable guidelines adopted by City Council Resolution and provisions of State law.

c. If unanticipated subsurface historic resources are discovered at the site, the archaeologist shall take immediate steps to stop all construction activity in the proximity of the cultural material. The Environmental Administrator shall be immediately informed of the situation. If it is determined that the find is an isolated occurrence or that the remaining construction activity will not significantly impact the historic resource, work shall be permitted to continue

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on the site. A report by the project archaeologist shall be submitted prior to the final inspection of the site, detailing the contents of the unearthed historic resource and a report shall be submitted by a historic resource consultant detailing the find/determination regarding the historic resource (drawings, photographs, etc. may not be needed and work could continue as long as the site is not impacted).

- d. In the event of an unanticipated discovery, when neither an archaeologist nor Native American monitor is on site, the information is to be communicated to the City's Environmental Administrator at once.
- e. When cultural material is encountered under "c" or "d" above, work shall be halted or diverted from the vicinity of the discovery until the significance of the historic resource can be determined as stated in the procedure contained in "f" below.
- f. The Environmental Administrator shall determine if the City should retain the services of a separate consulting archaeologist to conduct a site visit to determine the significance of the find. If a City's archaeologist is retained, the project archaeologist must consult with the City's consultant to determine the significance of the site. A signed statement will be prepared by the project archaeologist within 24 hours of the find indicating whether the find is potentially significant and the recommended course of action for reconnaissance/protection. This statement is to be reviewed by the City's archaeologist. The conclusions of both archaeologists, including differing views, is to be submitted to the Environmental Administrator.

In the case of a historic resource which is not archaeological in nature, the City's Environmental Administrator shall determine if a historic resource consultant must conduct a site visit in order to determine the significance of the previously unknown historic resource or the proposed changes to the historic resources which are necessitated by this most recent discovery.

- g. This report shall be immediately transmitted within 24 hours of said notification to the City. Work shall be diverted or halted for a period not to exceed 72 hours in order for the Environmental Administrator to conduct a hearing on the report and recommendations. Copies of the report shall be distributed to the City's consulting archaeologist.

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- h. The Environmental Administrator shall schedule a special meeting to consider the report and recommendations. Notification of the special meeting shall be as follows:
- (1) Posting of the meeting agenda at the City Hall lobby, San Juan Hot Springs Dance Hall and San Juan Capistrano Library.
 - (2) Verbal notification to the permit applicant, on-site archaeologists.
 - (3) Verbal notification to the City's archaeologist.
 - (4) Verbal notification to the Chairman of the Cultural Heritage Commission.
 - (5) Verbal notification to interested individuals and groups which have submitted a written request for such notification.
- i. The Environmental Administrator, after considering the contents of the report, its recommendations and findings, and review of testimony by interested individuals or groups, may take the following actions:
- (1) Determine that the find is insignificant and allow work to resume.
 - (2) Determine that additional testing is necessary to evaluate the significance of the artifacts. Said testing and preliminary report to be submitted within 14 days.
 - (3) Determine that the proposed project will not significantly affect the historic resource and that it can be documented and left in situ without compromising the integrity of the historic resource.
 - (4) Forward a recommendation to the City Council to initiate data recovery procedures or protect the artifacts in situ.
- j. If additional testing is determined, similar procedures as defined by subsections "d", "e", and "f" shall be followed.

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- k. If the Environmental Administrator forwards a recommendation of either data recovery or protection in situ that conflicts with currently approved plans, the item shall be scheduled for consideration at the next meeting of the City Council as an urgency item. The decision of the City Council shall be considered final.
- l. Actions of the Environmental Administrator (subsection "f" above) may be appealed to the City Council.
- m. If in the event that cultural material is discovered in accordance with section "d", above, all expenses related to work preformed, shall be reimbursed by the permit applicant.
- n. Whether cultural material is discovered or not, all monitors (archaeologists and Native American) shall submit a written summary of their services and observations.
- o. Prior to the issuance of any permit or action to proceed for the demolition of a historic resource, the owner may be required to allow for the removal of any significant feature. The owner shall make these features first available to local historic interest groups and the expense of the removal and storage of the features is to be borne by these historic interest groups.

The owner may also be required, as a mitigation measure for any proposed demolition or alteration of a historic resource, to document the historic resource photographically and with a written description and a historical statement. These records will become the property of the City and will be incorporated into the City's Historic Resource files which are available for public use.

10. On-Site Monitoring and Mitigation Enforcement (Paleontology)

- a. The Building and Safety Division shall be provided with an executed consultant services contract with the individual responsible for supervising on-site monitoring (from approved list of qualified paleontologists) to be present on-site during grading operations.

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- b. If paleontological material is present on the site, the paleontologist shall submit a report describing the artifacts that exist on the site. Said report shall include a statement on the significance of the discovery and recommended actions. If the paleontologist finds that the find is insignificant, the Environmental Administrator may allow construction to proceed.
- c. If this report finds that the discovery may be significant it shall be immediately transmitted to the City within 24 hours of notification. Work shall be diverted or halted for a period not to exceed 72 hours in order to schedule and conduct a hearing on the report and recommendations by the City's Environmental Administrator.
- d. The Environmental Administrator shall schedule a special meeting to consider the report and recommendations. Notification of the special meeting shall be as follows:
 - (1) Posting of the meeting agenda at the City Hall lobby, San Juan Hot Springs Dance Hall and San Juan Capistrano Library.
 - (2) Verbal notification to the permit applicant, on-site paleontologist.
 - (3) Verbal notification to the Chairman of the Cultural Heritage Commission.
 - (4) Verbal notification to interested individuals and groups which have submitted a written request for such notification.
- e. The Environmental Administrator, after considering the contents of the report, its recommendations, and review of testimony by interested individuals or groups, may take the following actions:
 - (1) Determine that the find is insignificant and allow work to resume.
 - (2) Determine that additional testing is necessary to evaluate the significance of the artifacts. Said testing and report to be submitted within 14 days.
 - (3) Forward a recommendation to the City Council to initiate data recovery procedures or protect the artifacts in situ.

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- f. If additional testing is determined, similar procedures as defined by subsections "d", and "e" shall be followed.
- g. If the Environmental Administrator forwards a recommendation of either data recovery or protection in situ, the item shall be scheduled for consideration at the next meeting of the City Council. The decision of the City Council shall be considered final.
- h. Actions of the Environmental Administrator (subsection "e" above) may be appealed to the City Council.
- i. Whether source material is discovered or not, a written report shall be prepared by all monitors summarizing their services and observations.

11. Repair, Rehabilitation, Restoration, Preservation and Relocation of Historic Resources

- a. All work performed on historic resources shall be done in accordance with the Secretary of the Interior's Standards as published by the National Park Service. This includes all repair, rehabilitation, restoration, preservation and relocation of historic resources.
- b. Applications to demolish, remove, relocate or otherwise alter any structure, or site including trees and other vegetation shall be made to the Department of Planning Services in a form as defined by procedures approved by the Director of Planning.
- c. Upon submission of a complete application, a report shall be prepared and agendaize for consideration by the Cultural Heritage Commission.
- d. The Cultural Heritage Commission shall consider the request and make a decision to either approve or deny the application. Said decision shall be transmitted to the Director of Planning. If the proposed alteration does not require review by other decision-making authorities pursuant to Title 9, Chapter 2 of the Municipal Code, the application shall be released for permit issuance to the Department of Engineering and Building Services.
- e. Decisions of the Cultural Heritage Commission may be appealed to the City Council in accordance with Section 9-2.314 of the Title.

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- f. Routine maintenance of historic resources that only entails the repair and replacement of materials in kind shall be exempt from the requirement of filing a development application with the City. However, an administrative determination must be made by the Environmental Administrator that the proposed work consists solely of the repair and replacement of materials in kind, and is therefore exempt from the City's application and review procedures.
- g. Owners of historic resources shall be exempt from all City fees for the repair, rehabilitation, restoration, preservation and relocation work performed on historic resources which does not negatively impact the historic resource as determined by the Environmental Administrator.

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