

ORDINANCE NO. 2013-09

AN ORDINANCE OF THE CITY OF SANTA CRUZ
AMENDING TITLE 24 OF THE MUNICIPAL CODE TO MAKE CHANGES TO SECTION
24.12.430, "PROTECTION OF ARCHAEOLOGICAL RESOURCES" PER THE GENERAL
PLAN 2030 REQUIREMENTS, TO ADD SECTION 24.12.431 "PROTECTION OF
PALEONTOLOGICAL RESOURCES" AND TO ADD A DEFINITION OF
PALEONTOLOGICAL RESOURCES TO CHAPTER 24.22.

The City Council of the City of Santa Cruz ordains as follows:

Section 1. Chapter 24.12.430 of the Municipal Code of the City of Santa Cruz shall be amended to read as follows:

24.12.430 PROTECTION OF ARCHAEOLOGICAL RESOURCES.

1. Policy and Purpose. Existing in Santa Cruz are certain deposits and sites of cultural significance believed to have been left by Native Americans and other early inhabitants. These deposits and sites are unique and irreplaceable phenomena of significance in the history of the city and the understanding of the cultural heritage of our land and of all humankind. Such sites have a deep, spiritual significance to Native Americans, especially the native peoples of the State of California, and constitute a precious archaeological and historical heritage, which is fast disappearing as a result of public and private land development. Uncontrolled excavation or modification of these resources would destroy their cultural integrity. This loss would affect future generations and must be prevented in the public interest. Such cultural resources should be preserved in an undisturbed state wherever possible, for future generations who should be more skilled and have access to better methods of study. In order to promote the public welfare, it is necessary to provide regulations for the protection, enhancement, and perpetuation of such sites. This section therefore, is intended to provide a procedure for preserving the valuable cultural resources in the city of Santa Cruz. It should be noted that California Public Resources Code Section 5097.9 and Health and Safety Code Section 7050.5 protect archaeological and paleontological resources and supersede any local regulations.

2. Archaeological reconnaissance is required on sites proposed for development within areas identified as "Highly Sensitive" or "Sensitive" on the General Plan Maps labeled "Areas of Archaeological Sensitivity" and "Historical Archaeology Sensitivity" prior to the issue of building or development permits. For development on sites that have "Known Resources" see 24.12.430(12).

3. An archaeological reconnaissance shall include archival research, site surveys and necessary supplemental testing as may be required and shall be conducted by a qualified archaeologist. The significance of identified resources shall be ascertained in accordance with CEQA definitions. If significant impacts are identified, impacts and mitigation measures outlined could include but are not limited to avoidance, project redesign, deposit capping, resource recovery options and/or onsite monitoring by an archaeologist during excavation activities. A written report describing the archeological findings of the research or survey shall be provided to the City.

4. Exemptions for minor development are allowed within “Sensitive” areas only. “Minor development” is defined for this purpose as development that involves spot excavation to a depth of 12 inches or less below existing grade or uses that have virtually no potential of resulting in significant impacts to archaeological deposits. Exempt projects may include: building additions, outdoor decks, or excavation in soil that can be documented as previously disturbed.

5. Developer’s Action on Discovery of Artifacts or Remains During Excavation or Development. Any person exercising a development permit or building permit who, at any time in the preparation for or process of excavating or otherwise disturbing earth, discovers any human remains of any age or any artifact or any other object which reasonably appears to be evidence of an archaeological/cultural resource, shall:

- a. Immediately cease all further excavation, disturbance, and work on the project site;
- b. Cause staking to be placed completely around the area of discovery by visible stakes not more than ten feet apart forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking;
- c. Notify the Santa Cruz County Sheriff-Coroner and the city of Santa Cruz Planning Director of the discovery unless no human remains have been discovered, in which case the property owner shall notify only the Planning Director;
- d. Grant permission to all duly authorized representatives of the Sheriff-Coroner and the Planning Director to enter onto the property and to take all actions consistent with this section.

6. Coroner’s Action on Discovery of Remains. If human remains are discovered, the Sheriff-Coroner or his/her representative shall promptly inspect the remains to determine the age and ethnic character of the remains and shall promptly, after making such determinations, notify the Planning Director. If the remains are found to be Native American in origin, the Sheriff-Coroner shall notify the Native American Heritage Commission. The Native American Heritage Commission will identify the Native American Most Likely Descendant who will provide recommendations for the proper treatment of the remains and associated artifacts per California State Resources Code 5079.9.

7. Planning Director’s Action on Discovery of Artifacts. If any artifacts are discovered, the Planning Director shall cause an on-site inspection of the property to be made. The purpose of the inspection shall be to determine whether the discovery is of an archaeological resource or cultural resource. In making a determination, the Planning Director may also consult with Native American groups, qualified archaeologists, or others with the necessary expertise.

8. Discovery Not an Archaeological/Cultural Resource. Upon determining that the discovery is not of an archaeological/cultural resource, the Planning Director shall notify the property owner of such determination and shall authorize the resumption of work.

9. Discovery an Archaeological/Cultural Resource. Upon determining that the discovery is of an archaeological/cultural resource, the Planning Director shall notify the property owner that no further excavation or development may take place until a mitigation plan or other measures have been approved by the director the protection of the site.

10. Mitigation Plan. The property owner or his/her agent shall prepare any required mitigation plan. The mitigation plan shall include conditions necessary or appropriate for the protection of the resource including, but not limited to, conditions on the resumption of work, redesign of the project, or other conditions deemed appropriate by the Planning Director. The director shall review the mitigation plan and may consult with Native Americans, archaeologists, or other interested persons, to ensure proper protection of the resource. When the director is satisfied that the mitigation plan is adequate, the director shall authorize the resumption of work in conformance with the mitigation plan.

11. Referral to Historic Preservation Commission. The Planning Director may refer to the historic preservation commission the decision whether the discovery is of an archaeological/cultural resource and the decision whether the mitigation plan is adequate to protect the resource. If the director refers the matter to the historic preservation commission, a public hearing shall be held in conformity with the requirements of this title relating to public, hearings.

12. Development on Known Archaeological Sites. No building permit for any earth-disturbing activity shall be issued on parcels identified by resolution of the city council as containing known cultural or archaeological resources, without the owner first obtaining an administrative use permit. The administrative use permit shall be conditioned with appropriate archaeological survey and mitigation procedures such as those prescribed in the Historic Preservation Element and the Local Coastal Land Use Plan.

(Ord. 2003-14 § 1 (part), 2003: Ord. 86-13 § 6, 1986: Ord. 85-05 § 1 (part), 1985).

Section 2. Chapter 24.12.431 of the Municipal Code of the City of Santa Cruz shall be added as follows:

24.12.431 PROTECTION OF PALEONTOLOGICAL RESOURCES.

1. The City shall notify applicants with development projects within sensitive paleontological areas of the potential for encountering such resources during construction and condition approvals that work will be halted and resources examined in the event of encountering paleontological resources during construction. If the find is significant, the City will require the treatment of the find in accordance with the recommendations of the evaluating paleontologist. Treatment may include, but is not limited to, specimen recovery and curation or thorough documentation.

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Section 3. Section 24.22.589 shall be added to Chapter 24.22 of the Municipal Code of the City of Santa Cruz and shall read as follows:

24.22.589 PALEONTOLOGICAL RESOURCES.

Any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include:

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).”

Section 4. This ordinance shall be in force and take effect thirty (30) days after its final adoption.

PASSED FOR PUBLICATION this 11th day of June, 2013, by the following vote:

AYES: Councilmembers Terrazas, Comstock, Lane, Mathews, Posner; Vice Mayor Robinson; Mayor Bryant.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: ss/Hilary Bryant, Mayor

ATTEST: ss/Bren Lehr, City Clerk Administrator

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PASSED FOR FINAL ADOPTION this ____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2013-09
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz

City Clerk Administrator