



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: 19-101, **Version:** 1

AN ACT ESTABLISHING THE CHEROKEE NATION REGISTRY OF HISTORIC PLACES

Section 1. Title and Codification

This Act shall be known as the "Cherokee Nation Registry of Historic Places Act" and codified at Title 31, Heritage and Culture, Chapter 5, of the Cherokee Nation Code.

Section 2. Purpose

The purpose of this Act is to provide a comprehensive framework for identifying, protecting and preserving Cherokee Nation cultural heritage sites.

Section 3. Substantive Provisions

§ 1001. Findings

- A. This Act may be cited as the "Cherokee Nation Registry of Historic Places Act"
- B. The Council of the Cherokee Nation finds and declares that:
 - 1. The Cherokee Nation's history and people are reflected in its cultural heritage;
 - 2. The cultural heritage of the Cherokee Nation should be preserved as a living part of our history and community;
 - 3. The preservation of irreplaceable cultural heritage sites is in the interest of the Cherokee Nation and its citizens to ensure that the legacy of cultural, educational, aesthetic, and inspirational sites will be maintained; and
 - 4. Although federal and state governments play a role in protecting Cherokee historical sites, it is essential that the Cherokee Nation expand its cultural resource preservation activities for future generations.

§ 1002. Policy

It shall be the policy of the Cherokee Nation, in cooperation with other Indian tribes, state and federal agencies, private organizations, and individuals to:

- A. Use appropriate measures to ensure the integrity of Cherokee Nation cultural heritage sites;
- B. Administer Cherokee Nation-owned or controlled cultural heritage sites in a spirit of stewardship for present and future generations; and
- C. Contribute to the preservation of non-Cherokee Nation owned cultural heritage sites by providing support to organizations and individuals undertaking preservation by public or private means.

§ 1003. Definitions

As used throughout this Act, the term:

- A. "Act" means the Cherokee Nation Registry of Historic Places Act.
- B. "Cultural Property" means any cultural resource deemed to be important enough to warrant listing in the Cherokee Register.
- C. "Cultural Resource" means any product of Cherokee activity, or any object or place given significance by Cherokee action or belief.
- D. "District" means any discrete area comprising buildings, objects, sites, or structures.
- E. "Lands in which the Cherokee have a historical interest" means all lands historically or traditionally used by the Cherokee.
- F. "Cherokee Lands" means those lands held in trust for the benefit of the Cherokee Nation and those lands which the Cherokee Nation holds a possessory interest.
- G. "Cherokee Register" means the Cherokee Nation Register of Historic Properties.
- H. "Object" means a product of Cherokee activity or an item given significance or meaning by Cherokee activity or belief.
- I. "Place" refers to an identifiable location at which an event occurred or a location given significance by Cherokee action or belief.
- J. "THPO" means the Cherokee Nation Tribal Historic Preservation Officer.
- K. "Secretary" shall refer to the Secretary of Natural Resources.
- L. "Site" means the location of the physical remains of Cherokee activity.
- M. "Sponsor" means the government official or the official in a private capacity who has decision-making authority over a particular undertaking and who has entered into a cooperative agreement with the Cherokee Nation concerning an undertaking.
- N. "Structure" means construction resulting from Cherokee activity.
- O. "Undertaking" means any project, activity, or program that can result in changes in the character or use of a culturally significant property. The project, activity or program must be under the direct or indirect jurisdiction of a Sponsor. Undertakings include new and continuing projects, activities, or programs not previously considered under the authority of this Act.

§ 1004. Tribal Historic Preservation Office

The Cherokee Nation Tribal Historic Preservation Office (hereafter referred to as the "THPO Office"), under the guidance of the Cherokee Nation Secretary of Natural Resources shall be the Cherokee Nation's agency responsible for the consultation, evaluation, identification, and registration of Cultural Property and is authorized to set policies and procedures to achieve the goals of the Act. The THPO shall advise the Principal Chief, the Council of the Cherokee Nation, the divisions, departments, programs, agencies, authorities, enterprises and other instrumentalities of the Cherokee Nation, the federal, state and local governments, private organizations and individuals on matters pertaining to preservation of cultural resources and historical places.

§ 1005. Cherokee Nation Register of Historic Properties

- A. The THPO, under the guidance of the Secretary of Natural Resources, shall create, maintain and administer a Cherokee Nation Register of Historic Properties (hereinafter referred to as the "Cherokee Register") comprising districts, places, sites and structures significant in Cherokee Nation history, architecture, archaeology, engineering and culture. The Secretary of Natural Resources is authorized and required to maintain the Cherokee Register and may list and de-list properties at the direction of the Principal Chief. The location, nature, and significance of certain places, objects, and sites may be culturally sensitive and, therefore, restricted from registry access.
- B. At least sixty (60) days prior to the designation of a property on the Cherokee Register, the Secretary of Natural Resources shall submit a report of the proposed designated properties for review and comment to the Culture Committee of the Council of the Cherokee Nation, or such other committee as may be designated by the Speaker of the Council of the Cherokee Nation. Such Report shall be made available for public inspection in a manner prescribed by the Secretary.
- C. The THPO may locate, inventory, and evaluate cultural resources and properties on lands in which the Cherokee have a historical interest, including Cherokee Lands, and recommend any such resources for listing on the Cherokee Register.

§ 1006. Protection of Historic Properties

In order to ensure the protection of the historic properties of the Cherokee Nation, the sponsor of any undertaking must obtain the approval of the THPO prior to implementation or authorization of any undertaking by the sponsor.

§ 1007. Prohibited Activities

No Cultural Property may be visited or investigated on Cherokee lands, except those Cultural Properties designated as open to the public within Cherokee Lands; nor may any person alter, damage, excavate, deface, destroy or remove, any Cultural Properties on Cherokee Lands. No person may sell, purchase, exchange or transport cultural resources from Cherokee Lands.

§ 1008. Exceptions

The prohibitions against alteration, collection, disturbance, excavation or removal of cultural resources do not apply to Cherokee Nation employees, or other Tribal agents, engaged in official business relating to activities approved in accordance with Cherokee Nation law, THPO Office policies and procedures, or by such persons holding a Permit under the Act.

§ 1009. Permit Requirements

Any person proposing to visit or inspect cultural resources, undertake cultural resources inventory, alter, collect, excavate or remove cultural resources, who is not excepted pursuant to § 1008 of this Act, shall apply to the THPO for a Cherokee Nation Cultural Resources Permit for the proposed activity. The THPO shall make recommendations for issue of a permit to any qualified individual, subject to appropriate terms and conditions. The Secretary of Natural Resources is authorized to issue all permits under this Act.

§ 1010 Suspension and Revocation of Permits

- A. The Secretary of Natural Resources may suspend or revoke a permit without cause upon determining that continuation of a permit is not in the interests of the Cherokee Nation. Such a revocation is made without liability to the Cherokee Nation, its agents and employees. Such revocations shall not prejudice the ability of the permit holder to hold or obtain other permits provided that:

1. None of the terms or conditions of a permit have been willfully violated;
2. The permit-holder has not engaged in activities prohibited by this Act; and
3. The permit-holder has not engaged in activities that resulted in the prior suspension of a permit.

§1011. Criminal Penalties

Any person violating the provisions of §1007 except for those exempted under §1008 of this Act shall be subject to the following criminal penalties:

1. Any person who:
 - a. Engages in cultural resources inventory activities except under the authority of a permit,
or
 - b. Who alters, collects, damages, destroys, excavates or removes cultural resources except under the authority of a permit, shall upon conviction, be guilty of a misdemeanor and subject to punishment of up to one year in jail and a fine of up to one thousand dollars (\$1,000.00) per violation and forfeiture of removed items.

§ 1012. Regulations, Procedures, Standards and Guidelines

The Secretary of Natural Resources shall develop, promulgate, publish and implement such regulations, procedures, standards and guidelines necessary to implement the requirements of or to achieve the purpose of this Act.

§1013. Severability

The provisions of this Act shall be severable and if any part of any provision hereof shall be held invalid by a court of Cherokee Nation or federal court, such holding shall not affect or impair the validity of any remaining provisions of this Act to any other person, court, or circumstance.