



Legislation Text

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AN ACT ESTABLISHING THE CHEROKEE NATION PARK, WILDLANDS, FISHING AND HUNTING PRESERVE ACT OF 2021

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known and cited as the "Cherokee Nation Park, Wildlands, Fishing and Hunting Preserve Act of 2021" and codified at Title 29, Chapter 2 "Tribal Reserved Lands", of the Cherokee Nation Code, which is hereby amended in accordance with the Act.

Section 2. Legislative Intent and Purpose

The purpose of this Act is to establish a regulatory scheme for the management of Cherokee Nation parks, wildlands, hunting and fishing reserves, and conservation of Cherokee Nation lands. It shall be the policy of the Cherokee Nation to acquire and manage lands for the beneficial use of Cherokee Citizens, conservation of natural resources, and preservation of Cherokee culture and traditions.

Section 3. Legislative History

Legislative Act 36-06, effective January 10, 2007; Legislative Act 10-10, effective March, 22, 2010.

Section 4. Substantive Provisions

§ 1001 Definitions. The following words and phrases shall have the meanings ascribed in this article, except where the context requires otherwise:

- A. "Act" means the Cherokee Nation Park, Wildlands, Fishing and Hunting Preserve Act of 2021.
- B. "Conservation" means restrictions placed on property, or other natural resources, for the purpose of preservation, rehabilitation, restoration, or otherwise protecting a property, or natural resource from degradation for the benefit of current and future Cherokee Citizens.
- C. "Conservation Lands" means any land, including Wildlands, Hunting Lands, Fishing Lands, Parks, and other properties set aside for specific or general conservation purposes in accordance with the Act.
- D. "Culturally Protected Species" shall have the meaning set forth in Legislative Act 10-10, effective March, 22, 2010, and such other designations made in regulations adopted in accordance with the Act .

- E. "Cultural Resource" means a natural resource or product of Cherokee activity, or an object or place given significance by Cherokee action or belief, including Culturally Protected Species and such other designations made in regulations adopted in accordance with the Act.
- F. "Hunting Lands" means lands, including water, designated for the taking of wildlife for subsistence and recreational purposes.
- G. "Fishing Lands" are lands, including water, designated for the taking of aquatic wildlife for subsistence and recreational purposes.
- H. "Park" means an area of land or water open to the public for traditional outdoor activities, recreational use, or other purpose permitted by the Act.
- I. "Principal Chief" means the Principal Chief of the Cherokee Nation.
- J. "Privileges" means the opportunity to utilize Reserve Lands for the purposes set forth in the Act and associated regulations.
- K. "Reserve Lands" means Wildlands, Hunting Lands, Fishing Lands, Conservation Lands, Parks, and other properties designated by, and subject to, the requirements of the Act.
- L. "Secretary" means the Cherokee Nation Secretary of Natural Resources.
- M. "Wildland" means an area of land or water which has retained its natural environmental integrity, although not necessarily completely natural and undisturbed, or has rare or culturally significant species of plant or animal life or similar features of interest worthy of management and preservation for current and future Cherokee citizens.
- N. "Wildlife" means any wild animal, whether alive or dead, including, without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and includes any part, product, egg, or offspring thereof.

§ 1002 Authority.

The Principal Chief, through the Secretary of Natural Resources, shall have authority to manage all Reserve Lands under this Act. The Secretary shall be responsible for identifying, evaluating, listing, or otherwise restricting Reserve Lands for use consistent with the policies and requirements of this Act. The Secretary shall advise the Principal Chief, the Council of the Cherokee Nation, the divisions, departments, programs, agencies, authorities, and enterprises of the Cherokee Nation, and the federal, state and local governments on matters pertaining to the use of Reserve Lands designated for the purposes set forth in the Act. The Secretary shall develop written plans for the management and use of Reserve Lands and such other procedures and regulations necessary to effectuate the purposes and policies of this Act.

§ 1003 Activities Permitted.

Activities permitted on Reserve Lands covered by this Act shall be for any purpose that provides increased opportunities for Cherokee citizens, families, and other individuals to experience compatible recreation, subsistence, and cultural preservation activities, including, but not limited to conservation, hunting, fishing, public and private recreation, traditional outdoor activities, and any other accommodations consistent with the policies and requirements of the Act.

§ 1004 Protection of Natural and Cultural Resources.

No person shall disturb, immure, cut, burn, remove destroy, or possess any real or personal property, or Cultural Resource of the Cherokee Nation, including natural growth in any area of the Reserve Lands; or take or possess any Wildlife, plant, or Cultural Resource from the Reserve Land, unless such activities are permitted by the Act or regulations, procedures, standards and guidelines established in accordance with the Act, an express provision of law, or Executive Order issued by the Principal Chief of the Cherokee Nation.

§ 1005 Designation of Properties.

The following properties are hereby designated as Reserve Lands under the Act:

- A. "Cherokee Nation Sallisaw Creek Park", as more fully described in the attached legal description, is approximately 790.70 acres of Tribal trust land located in Sequoyah County and is a partially developed public park utilized for hunting, fishing, camping and other recreational purposes.
- B. "Cherokee Nation Shawnee Preserve", as more fully described in the attached legal description, is approximately 155.34 acres of Tribal trust property located in Craig County that is considered Wildlands and currently used for hunting and traditional outdoor activities.
- C. "Cherokee Nation Medicine Keepers Preserve", as more fully described in the attached legal description and formerly referenced as CMS 83, is approximately 810 acres of Tribal trust property located in Adair County that is considered Wildlands and is currently utilized for traditional gathering and Cherokee cultural activities. This property shall be reserved for traditional cultural uses, with restricted access to the public.
- D. "Cherokee Nation Sequoyah Hunting Preserve", as more fully described in the attached legal description, is approximately 4376.53 acres of Tribal fee property located in Sequoyah County that is considered Wildlands and currently utilized for hunting, fishing, and traditional outdoor activities.

§ 1006 Additional Properties Designated Under the Act.

The Principal Chief, upon recommendation of the Secretary, may designate additional properties as Reserve Lands under the Act for compatible purposes. A list of additional properties designated as Reserve Lands by the Principal Chief in accordance with this Act shall be reported to the Council of the Cherokee Nation at least quarterly, and the formal names of such properties may be modified by resolution of the Council of the Cherokee Nation.

§ 1007 Suspension or Revocation of Privileges.

The Secretary of Natural Resources may suspend or revoke any privileges granted under this Act upon determining that continuation of such privilege is not in the best interest of the Cherokee Nation.

§ 1008 Criminal and Civil Penalties.

Any person violating § 1004, or any other provision of this Act, including any regulation established in accordance with the Act, shall be guilty of a crime and or civil infraction and subject to the following penalties.

- A. Criminal Penalties. Violation of the Act as established in this Section shall be a misdemeanor punishable by a term of imprisonment not to exceed one (1) year, or a fine in a sum not to exceed Five Thousand Dollars (\$5,000), or by both.
- B. Civil Penalties. Violation of the Act as established in this Section shall also be a civil infraction punishable by a fine a fine in a sum not to exceed Five Thousand Dollars (\$5,000).

§ 1009 Jurisdiction.

Any person who enters onto any land covered by this Act consents to the civil and criminal jurisdiction of the Cherokee Nation to fullest extent allowable under the laws of the Cherokee Nation, and applicable federal law and shall be subject to the jurisdiction of the Cherokee Nation courts.

§ 1010 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 achieve the purpose of this Act.

§ 1011 Cooperative and Governmental Agreements.

The Principal Chief is authorized to negotiate and execute agreements with entities and agencies of the Cherokee Nation, including Cherokee Nation Businesses, federal, state, local governments, and other public and private entities to facilitate the purpose, policies, and requirements of the Act, which may include applications for grant funding, leases and other cooperative agreements.

Section 5. Provisions as Cumulative

The provisions of this act shall be cumulative to existing law. If a provision of the Act is inconsistent with existing Cherokee Nation law, including any provision of Title 29 of the Cherokee Nation Code, the operative provision of this Act shall apply.

Section 6. Severability

The provisions of this act are severable and if any part or provision hereof shall be held void the decision of the Court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Section 7. Effective Date

It being immediately necessary for the welfare of the Cherokee Nation, the Council of the Cherokee Nation hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

Section 8. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.