

§ 70-51. Archaeological investigations.

(a) Any person wanting to conduct an archaeological investigation on private land that is the site of an archaeological resource enrolled in the Record shall apply to the Department of Natural and Cultural Resources for a permit to conduct such an investigation. The application shall contain information the Department of Natural and Cultural Resources deems necessary, including the time, scope, location and specific purpose of the proposed work.

(b) A permit shall be issued pursuant to this section if, after any notifications and consultations required by subsection (d) of this section, the Department of Natural and Cultural Resources finds that:

- (1) The applicant is qualified to carry out the permitted activity;
- (2) The proposed activity is undertaken for the purpose of furthering archaeological knowledge in the public interest;
- (3) The currently available technology and the technology the applicant proposes to use are such that the significant information contained in the archaeological resource can be retrieved;
- (4) The funds and the time the applicant proposes to commit are such that the significant information contained in the archaeological resources can be retrieved;
- (5) The archaeological resources that are enrolled in the Record and that are collected, excavated or removed from the privately owned site and the associated records and data will remain the property of the private owner of the archaeological resource;
- (6) Copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution;
- (7) The applicant shall bear the financial responsibility for the reinterment of any human burials or human skeletal remains excavated or removed as a result of the permitted activities; and
- (8) The applicant has obtained the permission of the owner of the archaeological resource to conduct the archaeological investigation.

(c) A permit may contain any terms, conditions or limitations the Department of Natural and Cultural Resources deems necessary to achieve the intent of this Article. A permit shall identify the person responsible for carrying out the archaeological investigation.

(d) If the Department of Natural and Cultural Resources determines that a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, the Department of Natural and Cultural Resources, before issuing the permit, shall notify and consult with, insofar as possible, a local representative of an appropriate religious or cultural group. If the religious or cultural site pertains to Native Americans, the Department of Natural and Cultural Resources shall notify the Executive Director of the North Carolina Commission of Indian Affairs. The Executive Director of the North Carolina Commission of Indian Affairs shall notify and consult with the Eastern Band of Cherokee or other appropriate tribal group or community. Such notification shall include, but not be limited to, the following:

- (1) The location and schedule of the forthcoming investigation;
- (2) Background data concerning the nature of the study; and
- (3) The purpose of the investigation and the expected results.

(e) A permit issued under this section may be suspended by the Department of Natural and Cultural Resources upon the determination that the permit holder has violated any condition of the permit. (1991, c. 461, s. 2; 2015-241, s. 14.30(s).)