

## **CHAPTER 55-03**

### **PROTECTION OF PREHISTORIC SITES AND DEPOSITS**

#### **55-03-00.1. Definitions.**

1. "Cultural resources" includes prehistoric or historic archeological sites, burial mounds, and unregistered graves.
2. "Mitigate adverse effect" includes:
  - a. The process of making and preserving a record of the existence and scientific, historical, architectural, engineering, educational, or aesthetic value of a cultural resource, historic building, structure, or object.
  - b. The process of restoring, rehabilitating, reconstructing, stabilizing, or preserving, through some other means, a cultural resource, historic building, structure, or object.

**55-03-01. Permit required to investigate, evaluate, or mitigate adverse effect on cultural resources, historic buildings, structures, or objects - Application - Fee.** Any person engaged in identifying, evaluating, or mitigating adverse effects on cultural resources, historic buildings, structures, or objects on any lands in North Dakota, under section 106 of the National Historic Preservation Act of 1966 [Pub. L. 89-665; 80 Stat. 915; 16 U.S.C. 470, as amended by Pub. L. 91-243, Pub. L. 93-54, Pub. L. 94-422, and Pub. L. 94-458], 36 CFR 800, or subdivision u of subsection 1 of section 38-14.1-14, shall obtain an annual permit from the director of the state historical society. The permit application must be in the form prescribed by the director. Each application must be accompanied by a filing fee of one hundred dollars. The director may waive the fee requirement if the applicant is an instrumentality of the state. Following issuance of the annual permit, the permittee shall submit to the state historical society payment in the amount of fifty dollars with every cultural resources identification, evaluation, and mitigation report submitted to the director in compliance with the federal and state statutory and regulatory requirements identified in this section. A permittee submitting a report on behalf of a nonprofit corporation formed under chapter 10-33 does not have to pay the fee for filing the report.

**55-03-01.1. Permit required to investigate, excavate, or otherwise record cultural resources on land owned by an instrumentality of the state and to excavate cultural resources on private land.** Any person engaged in the investigation, excavation, or other recording of cultural resources on land owned by an instrumentality of the state or in the excavation of cultural resources on private land for any purposes other than those identified in section 55-03-01 first shall obtain a permit from the director. A permit may be granted only for the investigation, excavation, or other recording of cultural resources at the locations described in the application for permit. Each application must be accompanied by a fee of one hundred dollars.

**55-03-02. Contents of permit.** A permit issued pursuant to an application made under section 55-03-01 or 55-03-01.1 must clearly describe the purpose of the permit and must be in the form prescribed by the director. A permit may not be granted until the director is satisfied that the applicant is professionally qualified to conduct that work for which the permit is required. When the cultural resources are on land owned by an instrumentality of the state, the permit may not be granted until the applicant has agreed to deliver to the director all of the archaeological or historical materials found and removed from the land. When the cultural resources are on private land, the permit may not be granted until the applicant has agreed to deliver to the director all of the human remains and burial goods, as defined in section 23-06-27, found and removed from the land. A permit may not be granted until the applicant has agreed to deliver to the director copies of all records and reports as determined by the director to be pertinent to the work performed.

**55-03-03. Period for which permit granted - Revocation.** Each permit issued under section 55-03-01 terminates on December thirty-first of the year in which it is issued. Any permit issued under section 55-03-01 or 55-03-01.1 may be revoked by the director at any time if it appears that any identification, evaluation, or mitigation of adverse effects on cultural resources, historic buildings, structures, or objects performed by the permittee are being conducted negligently or improperly, or without regard for the careful preservation and conservation of the artifacts and materials they contain.

**55-03-04. Fees deposited in revolving fund - Use.** All fees collected by the director under sections 55-03-01 and 55-03-01.1 must be deposited in the revolving fund of the state historical society and must be used by the director for making investigations of permit applicants and for the management and analysis of records and artifacts submitted to the director under sections 55-03-01, 55-03-01.1, and 55-03-02.

**55-03-05. Landowner may explore on his own land.** Repealed by S.L. 1989, ch. 307, § 7.

**55-03-06. Archaeological or paleontological materials retained upon sale of land by state or municipality.** When land is sold, conveyed, transferred, or leased by the state of North Dakota, or by any department or agency thereof, or by any municipal subdivision thereof, the title to any and all archaeological or paleontological materials, whether such materials are found upon the surface or below the surface of such land, must be retained by the state or by the municipal subdivision thereof, as the case may be.

**55-03-07. Violation of chapter - Penalty.** Any person violating any provision of this chapter is guilty of a class A misdemeanor and shall forfeit to the state all archaeological or historical articles and materials discovered by the violator. Any such violation must be held to be committed in the county where the exploration or excavation for archaeological or historical material was undertaken.