

TITLE XXXII
(32)

CULTURAL RESOURCE CODE

Ordinance No. 189

Standing Rock Sioux Tribal Code of Justice



Resolution No. 028-15

Approved
JANUARY 6, 2015

BY

Standing Rock Sioux Tribal Council

RESOLUTION NO. 028-15

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934 [48 Stat. 984], with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, pursuant to Article IV, Section C of the Constitution of the Standing Rock Sioux Tribe, the Tribal Council is empowered to promote and protect the health, education and general welfare of the members of the Tribe; and

WHEREAS, pursuant to Article IV, Section A of the Constitution of the Standing Rock Sioux Tribe, the Tribal Council is empowered to negotiate with Federal, State and local governments and others on behalf of the Tribe; and

WHEREAS, the Standing Rock Sioux Tribe created the Standing Rock Sioux Tribal Historic Preservation Office [SRST-THPO] to protect sacred and historic properties within its aboriginal territory; and

WHEREAS, the sacred places of Tribal Nations and the distinctive stone features associated with them are recognized by the Standing Rock Sioux Tribe as a continued source of spiritual healing and renewal;

NOW THEREFORE BE IT RESOLVED, as stewards of these sacred lands, the Standing Rock Sioux Tribe wants to ensure that these areas will be available for our citizens, children and grandchildren as free from destructive development as possible; and

BE IT FURTHER RESOLVED, the Standing Rock Sioux Tribal Council adopts the amended version of the Title XXXII to be implemented into the Standing Rock Sioux Tribe Code of Justice by resolution; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council is hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of 17 members, of whom 14 constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held on the 6th day of **JANUARY, 2015**, and that the foregoing resolution was duly adopted by the affirmative vote of 12 members, with 0 opposing, and with 2 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.**

DATED THIS 6th DAY OF JANUARY, 2015.

ATTEST:

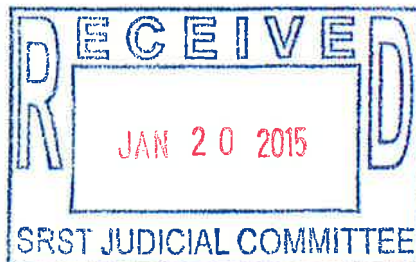


Adele M. White, Secretary
Standing Rock Sioux Tribe



Dave Archambault II, Chairman
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]



Meeting Date: 01-06-2015
Motion No. 25

TITLE XXXII
CULTURAL RESOURCE CODE

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Chapter 1. Short Title

32-101. Short Title

This code may be cited as the Cultural Resource Code.

Chapter 2. Findings and Purpose

32-201. Findings

The Standing Rock Sioux Tribe finds and declares:

- (1) Pursuant to the Agreement entered into between the National Park Service (Department of Interior) and the Standing Rock Sioux Tribe (SRST) on August 14, 1996 the Tribe has assumed certain responsibilities and functions under the National Historic Preservation Act of 1966 and as amended in 1992, within the exterior boundaries of the Standing Rock Sioux Reservation;
- (2) The Standing Rock Sioux Tribe-Tribal Historic Preservation Office (THPO) recognizes and adheres to the Fort Laramie Treaty of 1851 and 1868, the Tribal Constitution and Tribal and Federal Law;
- (3) It is the policy of the Standing Rock Sioux Tribe to honor the National Historic Preservation Act (NHPA) of 1966 and its 1992 amendments, Archaeological Resources Protection Act (ARPA) of 1979, Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, National Environmental Policy Act (NEPA) of 1970, American Indian Religious Freedom Act of 1978, Antiquities Act of 1906, Executive Orders, regulations, and other applicable Tribal and cultural resource laws;
- (4) The Standing Rock Sioux Tribe has a 100 percent survey policy on Tribal lands to ensure that all lands within the exterior boundaries of the Standing Rock Sioux Reservation are archaeologically surveyed under Section 106 of NHPA; and, a

Traditional Cultural Properties (TCP) survey conducted under section 101 (d) (6) (B) of NHPA prior to any ground breaking activity;

- (5) It is the policy of the Tribe to protect sacred sites, stone features and historic properties contained within its Tribal lands, ancestral, aboriginal/buffalo territory and ceded lands;
- (6) The preservation of Lakota/Dakota cultural heritage is in the best interest of the Lakota/Dakota people and is an important aspect of community life;
- (7) The spiritual, physical, mental and emotional well-being of the Standing Rock Sioux Tribe and its members is directly related to the preservation of the culture, the Lakota/Dakota language and traditions of the Lakota/Dakota people;
- (8) The increased knowledge of our Lakota/Dakota culture will improve the planning of federal, state, tribal and other projects on and off the Standing Rock Sioux Reservation;
- (9) In order to preserve and protect the sacred stone features, cultural and archaeological resources located on tribal lands, the Standing Rock Sioux Tribe hereby declares the ownership of all archeological and cultural resources to be vested in the Standing Rock Sioux Tribe.

32-202. **Purpose**

The purpose of this Cultural Resource Code is to secure for the present and future benefit of the Standing Rock Sioux Tribe, the protection and preservation of all cultural and archaeological resources located within the exterior boundaries of the Standing Rock Sioux Reservation.

Chapter 3. Laws

32-301. Applicable Law

The THPO will honor treaties, Tribal and federal laws, regulations, executive orders including but not limited to:

- (1) The Fort Laramie Treaty of 1851 and 1868;
- (2) The Standing Rock Sioux Tribal Constitution, any applicable Tribal Ordinance or Code related to such activity as may be defined;
- (3) The National Historic Preservation Act of 1966, as amended in 1992, and the revised regulation 36 CFR Part 800;
- (4) The Archeological Resources Protection Act of 1979;
- (5) The National Environmental Policy Act of 1970;
- (6) The Native American Graves Protection and Repatriation Act of 1990;
- (7) The American Indian Religious Freedom Act of 1978;
- (8) The Historic Sites Act of 1936;
- (9) The Antiquities Act of 1906;
- (10) The Archaeological and Historic Preservation Act of 1974;
- (11) The Reservoir Salvage Act;
- (12) The Abandoned Shipwreck Act 1987;
- (13) Executive Order 13175, Consultation and Coordination With Indian Tribal Governments;
- (14) Executive Order 13007, Indian Sacred Sites.

Chapter 4. Jurisdiction

32-401. **Applicability**
This code shall apply to all lands within the exterior boundaries of the Standing Rock Sioux Indian Reservation, to the fullest extent consistent with tribal and federal law.

32-402. **Disclaimer Clause**
For the purposes set forth in this Code, nothing in this Code alters, amends, repeals, interprets or modifies tribal sovereignty, any treaty rights, or other rights of the SRST, or preempts, modifies or limits the exercise of any such rights.

Chapter 5. Consultation

32-501. **Purpose**
The purpose of consultation required by this Code is to establish a procedure to fulfill the federal requirements to consult on a government-to-government level under NHPA, other existing Federal Law and Executive Orders; and adhere to the requirements of consultation under Section 106 of NHPA.

32-502. **Federal Government Relationship with the SRST**
The federal government has a unique legal relationship with the SRST set forth in the Constitution of the United States, treaties, statutes, and court decisions. Consultation with the SRST and the THPO shall be conducted in a sensitive manner respectful of Tribal sovereignty.

32-503. **Requirements of Consultation**
(a) Any agency official, applicant, or professional must initiate consultation with the THPO and SRST early in the planning stage of any planned activity and prior to the approval of the expenditures of any federal funds or financial

assistance; and prior to the issuance of any required license, permit and/or approval.

32-504. **Notification**

- (a) Any agency official, applicant or professional who seeks to establish a federal undertaking or planned activity within the exterior boundaries of the Standing Rock Reservation must initiate consultation by certified mail including an electronic version and submit it to the THPO and SRST. This should be done early within the planning process, prior to any required environmental and cultural reviews related to such action being conducted.
- (b) Notification must include a list of the agencies involved including the lead agency if more than one agency is involved, the applicants or professionals involved, the scope of the activity, the area of potential effect (APE); and a timeline for the completion of the reviews regarding the environmental and cultural resource surveys.

32-505. **Consultation under Section 106 of NHPA**

- (a) The THPO and the SRST shall identify tribal concerns as set out in section 106 and section 101 (d) (6) (B) of the NHPA;
- (b) The THPO shall include historic preservation concerns, tribal concerns and the needs of the Federal agency or applicant during NHPA consultation;
- (c) An agency official must initiate consultation among the interested parties on the effects of a planned activity that may impact historic properties

commencing at the earliest stages of project planning prior to any archeological or cultural resource survey being conducted.

32-506. **Government-to-Government Consultation**

It is the statutory requirement for a federal agency to initiate consultation with the SRST or THPO on any planned activity within the exterior boundaries of the Standing Rock Sioux Tribe. Consultation must occur on two levels of jurisdiction and is a statutory requirement within federal law and this Code.

The NHPA requires:

- (a) Section 106 Consultation with the THPO; and,
- (b) Section 101 (d)(6)(b) requires consultation on a government-to-government level with the SRST leadership and a federal agency official.

32-507. **Required Consultation on or off Tribal Lands**

When the SRST participates in government-to-government consultation regarding a planned activity on or off tribal lands; the THPO shall participate to protect the interests of the SRST and the Oceti Sakowin. The SRST shall consult with the head of the agency and report to Tribal Council any recommendations to address and resolve adverse impacts.

Chapter 6. Tribal Historic Preservation Office

32-601. **Establishment**

The Tribal Historic Preservation Office was established on August 14, 1996.

32-602. **Administration and Supervision**

The Tribal Historic Preservation Officer (THPO) is authorized and empowered to administer and enforce this ordinance and to perform such other functions under tribal and federal law, as may be delegated by the Tribal Council:

- (a) The SRST THPO may amend Chapter 9: Permit to Survey and Chapter 19: Violations and Fees by tribal resolution without requiring an amendment to Title XXXII. The resolution amendments shall be effective the date the resolution is passed by the SRST Tribal Council, and attached to this Code.

32-603. **Tribal Historic Preservation Officer**

The Tribe shall hire the Officer, who shall be an individual with knowledge of the requirements for the management and preservation of archeological and cultural resources. The officer shall not simultaneously hold any other office in tribal government and shall devote full-time to the service of the tribe in the discharge of their official duties, in consultation with the Tribal Council.

The Officer shall be:

- (a) The official NAGPRA representative; and,
- (b) shall hold an official position with the North Dakota Intertribal Re-internment Committee (NDIRC) for the Standing Rock Sioux Tribe; and,
- (c) due to agreements with both the National Park Service and state agencies this position is required to be funded.

32-604. **Tribal Archeologist**

The Tribe shall hire an archeologist who will be responsible for conducting surveys, including the Class I, Class II and Class III cultural resource inventories. The archeologist will be responsible for updating and maintaining the Geographic

Information Systems (GIS) computer; the Standing Rock Historic Register, and updating all site files.

The archeologist shall work with elders, spiritual leaders and traditional practitioners to assist with the identification of archeological and (or) cultural resources. Pursuant to the agreement between the National Park Service and the Standing Rock Sioux Tribe as well as other agencies, this position is required to be funded.

32-605. **Assistance**

The THPO is authorized to seek and obtain the assistance of the Standing Rock Sioux Tribe, the BIA law enforcement, other law enforcement agencies, the Tribal prosecutor, and the United States Attorney for investigation, prosecution and enforcement of the provisions of this code and any applicable federal law.

32-606. **Repository**

The Tribal Historic Preservation Office is the official repository for information, data, archaeological and cultural artifacts covered under this ordinance. Access to the collection and archives for education and research purposes will be controlled by the Officer and the Tribal Archeologist.

32-607. **Confidentiality**

All individuals conducting business with the SRST THPO shall sign a confidentiality statement that prohibits any individual, entity or applicant from disclosing any information regarding archeological and cultural resources that are significant to the SRST. Disclosure of sensitive information concerning these resources is punishable by criminal charges, civil fines and (or) other penalties referenced in Chapter 19 of this code.

Chapter 7. 100% Survey Policy

32-701. 100% Survey Policy

The Standing Rock Sioux Tribe has a 100% survey policy that applies to all lands within the exterior boundaries of the Standing Rock Reservation. This policy applies to any applicant or professional for any planned activity or federal undertaking.

32-702. Two Survey's Required to Fulfill 100% Survey Policy

To comply with the 100% Survey Policy, the following two surveys are required on any planned activity:

(a) The THPO requires Class I and Class III inventories for all Planned Activities within the exterior boundaries of the Standing Rock Reservation. The purpose of these inventories is to identify any archeological and cultural resources that may be affected by an undertaking;

(b) The THPO requires a Traditional Cultural Survey by a qualified Oceti Sakowin TCS for all Planned Activities within the exterior boundaries of the Standing Rock Reservation. The purpose of this survey is to identify any areas or historic properties of religious and cultural significance to the SRST that may be affected by a planned activity.

32-703. Waivers and Exemptions

The THPO will determine inventory/survey exemptions on a case by case basis:

(a) The THPO does not have any categorical exclusions (also referred to as "Cat X's"), which would exempt an inventory;

- (b) The THPO conducts surveys for home sites for Tribal members free of charge;
- (c) There will be no exemptions for inventories that seek to streamline the process using a predictive model.

32-704. **Land Exchanges**

An Archeological Survey and a Traditional Cultural Survey are required for any lands being considered for an exchange of land status or ownership because both parties need to know if Cultural Resources are being given away regardless of whether the exchanged land retains its trust status.

When an allotted land-owner, tribal member, the BIA or the SRST gives notice to the Economics Committee and the THPO that a Land Exchange is being processed, the consultation process is initiated between parties involved, the SRST THPO and the Bureau of Indian Affairs.

Any waivers to the requirements contained in Chapter 8 and this section are prohibited when a land exchange is proposed by a tribal member, allottee or the SRST.

Chapter 8. Survey Requirements

32-801. **Archeological Survey Requirements**

Class I Inventory

- (a) Class I Inventories are completed with the use of existing data from cultural resource inventory files (site files) maintained by the SRST THPO. The purpose of the Class I inventory is to identify known archeological and cultural resources. It is used to determine if a more intensive inventory of a

specific area is required. This determination is made in consultation with the THPO. The following process is used for conducting a file search;

- (1) An applicant's archeologist may complete the file search or coordinate with the Tribal Archeologist to complete the file search.
- (2) If the Tribal archeologist is requested to conduct a Class I file search for any planned activity, there may be a fee charged.

(b) The Officer and Tribal Archeologist shall use the results of the Class I Inventory to determine whether the project area may be affected by the planned activity. The Officer and Tribal Archeologist are the only individuals who retain the authority to allow a project to proceed:

- (1) The project may proceed without a Class III Inventory if the Class I Inventory reveals that the Area of Potential Effect (APE) has been adequately surveyed and does not contain any recorded archeological or cultural resources; and, the Officer or Tribal Archeologist determines that no further identification efforts are necessary;
- (2) A Class III inventory is required if the APE contains no recorded archeological or cultural resources in the project area and the area has not been surveyed;
- (3) If there are known archeological and cultural resources in the project area and further consultation with the THPO is required to ensure compliance with this code and federal law;
- (4) If the proposed project is in a disturbed area with no integrity for archeological and cultural resources a Class III survey is not needed as long as the THPO and/or archeologist has provided written notice in a form of a concurrence or clearance letter;
- (5) If it is determined that the project will not affect archeological and cultural resources, no Class III survey is required.

32-802. **Class III Inventory**

- (a) Class III inventories are intensive field surveys conducted by a professional through a pedestrian survey of the entire project area. The intent of a Class III inventory is to locate and record all historic/cultural properties. The Tribal Archeologist may conduct Class III surveys within the exterior boundaries of the SRST;

- (b) Class III inventories are designed to produce a total inventory of the identifiable cultural properties within the project area. Once it has been completed, no further survey work should be needed in the project area as long as the current standards are met except in cases where:
 - (1) There is a high probability that the survey area contains buried cultural materials requiring additional work and site monitoring by the THPO. The Officer or Tribal Archeologist make this determination; or,

 - (2) The Officer determines that another Class III inventory is necessary to ensure compliance with the purposes of this title; or,

 - (3) If a Class III archaeological Inventory report is over twenty (20) years old the THPO will require that the project area be re-surveyed regardless if the APE has been surveyed or not.

- (c) All Class III inventories conducted within the exterior boundaries of the Standing Rock Sioux Tribe require a Traditional Cultural Specialist (TCS) on site, while the survey is being conducted, as mandated by the SRST Tribal Council (Resolution 002-13). The costs associated with this service are at the expense of the professional, applicant, or local government.

(d) Imminent threats to the health, welfare and safety of the SRST require immediate coordination between federal/tribal agencies and the THPO to ensure protection of cultural and archeological resources. In the event that a Class III Survey and a Traditional Cultural Survey are required in an emergency situation, the THPO will immediately conduct the survey, if possible. Post-assessments are required under this section if an emergency survey cannot be conducted due to safety reasons during the event. The decision to conduct a post-assessment in lieu of a Class III and Traditional Cultural Survey is at the sole discretion of the THPO. This will be at the cost of the lead federal and (or) tribal agency which may be determined at a later date. These threats include but are not limited to:

(1) Natural Disasters—floods, fires, earthquakes, storms;

(2) Man-made disasters—industrial spills, leaks, fires, explosions, pollution, illegal disposal of waste and other chemicals;

(3) Anytime the Chairman has issued a Disaster Declaration or Emergency Response Declaration.

(e) Any professional conducting a Class III survey under a SRST THPO permit shall meet the Secretary of Interior Standards to complete the survey. The cost of any survey and associated costs associated with the inventory shall be at the expense of the professional, applicant, or local government.

32-803. **Class III Reporting Requirements**

(a) Upon completion of a survey in connection with a planned activity, the professional conducting the inventory shall complete an archeological

resource report. One copy of the report shall be filed with the THPO. The report shall include:

- (1) A description of the planned activity including: the title, author, lead agency, legal location, the project area, results of the Class I file search, description of survey methods, field crew, visibility, results, and recommendations;
- (2) Site forms specifying any archaeological and cultural resources identified and assessing any potential effects to the resources;
- (3) Recommended project alternatives to avoid adverse effects to identified resources;
- (4) A map of the survey area and any sites recorded, on a USGS 1:24,000 quad map. The map or maps should include complete legal locations, quad names, and be of original size;
- (5) SRST THPO may require geographical information system (GIS) data be included with reports.

32-804. **Traditional Cultural Survey**

A Traditional Cultural Survey is conducted to identify Cultural Resources, areas or historic properties of religious and cultural significance to the SRST or as described in Section 101 (d) (6) (B) of NHPA.

32-805. **Traditional Cultural Survey Reporting Requirements**

(a) Upon completion of a survey in connection with a planned activity, the TCS conducting the inventory shall complete a Traditional Cultural Survey report. One copy of the report shall be filed with the THPO. The report shall include:

- (1) A description of the planned activity including: the title, author, lead agency, legal location, and the project area, description of survey methods, field crew, visibility, results, and recommendations;

- (2) Site forms specifying any traditional cultural resources identified and assessing any potential effects to the resources;
- (3) Recommended project alternatives or reroutes to avoid adverse effects to identified resources;
- (4) A map of the survey area and any sites recorded, on a USGS 1:24,000 quad map. The map or maps should include legal locations, quad names, and be of original size.

32-806. **Survey Completion**

Upon completion of the survey requirements, the Officer shall either:

- (1) Certify to the applicant or professional that the planned activity may proceed as planned, or:
- (2) Require further compliance with this code.

Chapter 9. Permit to Survey

All Archeological Surveys and all Traditional Cultural Surveys conducted within the exterior boundaries of the Standing Rock Sioux Tribe must be conducted under a permit from the SRST THPO.

32-901. **Determination of Required Permit**

The THPO Officer or Tribal Archaeologist shall determine whether a project shall require an Archeological Survey Permit and/ or a Traditional Cultural Survey Permit. Each Permit Application requires a fee that is based on the type of survey work to be conducted. The THPO shall set the required fee schedule for each project.

It is prohibited for any Enrolled member to be charged any permit fee or survey costs when requesting any professional services from a Federal entity, applicant, Tribal program or Local government.

32-902. **Archaeological Survey Permit Application**

A professional must secure approval of a SRST Archaeological Survey Permit Application from the THPO for any Class I, Class II and Class III inventory located within the exterior boundaries of the SRST. The Standing Rock Tribal Archaeologist is exempt from this permit requirement:

- (a) The SRST Archaeological Permit Application must be completed by the professional who will be completing the archaeological survey work;
- (b) The information provided in the Archaeological Survey Permit Application shall include:
 - (1) A Scope of Work describing the planned activity and a description of the survey work that is proposed to be conducted under the survey and to fulfill the requirements of the 100% survey policy for the project area;
 - (2) A map of the project area and specific corridor to be surveyed;
 - (3) An attachment that delineates the project boundaries by township-range-section, USGS map, UTM coordinates (NAD 83 if available) and GIS data;
 - (4) The names and resumes of all individuals who will be conducting work under the permit, including Principal Investigator (PI), Project Director (PD), and any field technicians (FT) involved in a project.
 - (5) Proposed beginning and ending dates;

- (6) A signed confidentiality statement provided by THPO and required for all individuals who conduct work under the permit;
- (7) The name of the Traditional Cultural Specialist(s) (TCS) who will accompany the archaeological survey crew throughout the duration of the project, as mandated by the SRST Resolution 002-13 and Chapter 9 32-902 (c) of this Code. The number of TCS personnel required shall be determined by the scope of the project at the discretion of the THPO.

(c) By signing the SRST Archaeological Permit Application the professional and all individuals conducting work under the permit agree to abide by the laws of the SRST and comply with the regulations set out in this code.

32-903.

Traditional Cultural Survey Permit Application

Any Oceti Sakowin member wishing to conduct a Traditional Cultural Survey within a project area that is located within the exterior boundaries of the Standing Rock Reservation, must first secure approval of a Traditional Cultural Survey Permit from the THPO. Any Traditional Cultural Specialist employed as a full time staff member within the Traditional Historic Preservation Office is exempt from this permit requirement:

- (a) The SRST Traditional Cultural Survey Permit Application must be completed by the Oceti Sakowin member who will be completing the Traditional Cultural survey work;
- (b) The survey work conducted under the Traditional Cultural Survey Permit shall fulfill the requirements of Section 101 (d) (6) (B) of NHPA. The THPO, at its discretion, shall determine whether an Oceti

32-1104. Determination of Adverse Effect

The Officer shall determine an appropriate method to avoid the adverse effect of the Planned Activity on the archaeological, cultural resource, and (or) historic properties of spiritual religious and cultural significance to the SRST upon completion of consultation and the requirements of Chapter 5.

32-1105. Memorandum of Agreement

(a) When the applicant and the THPO reach an agreement as to how to avoid the adverse effects on the archaeological or cultural resource, and (or) historic properties of religious and cultural significance to the SRST, the applicant and the officer shall enter into a Memorandum of Agreement (MOA). The MOA will detail the method for avoiding an adverse effect. The THPO has the option of submitting the MOA to the Advisory Council on Historic Preservation (ACHP) for review and approval as a signatory.

(b) The Memorandum of Agreement shall be subject to approval by Tribal Council.

Chapter 12. Protection of Burial Sites

32-1201. Policy

It is the policy of the Standing Rock Sioux Tribe to protect the burial sites.

32-1202. Repatriation

When human remains are discovered as a result of any planned activity, survey, or inadvertent discovery; the repatriation of human remains shall be done expeditiously, in consultation with the THPO.

32-905. **Required Tribal Business Tax License**

Any Professional, proposing to conduct work under an approved permit from the THPO must submit proof of a SRST Tribal Business Tax License, with the permit application, if applicable.

32-906. **Information in Connection With Permit**

A legible original copy of all reports, papers, studies, photographs, field notes and maps generated in connection with any permit issued pursuant to this ordinance shall be provided to the THPO.

32-907. **Paleontology**

During the course of a permitted survey, a Professional or Oceti Sakowin member is required to provide immediate notification to the THPO Officer and Tribal Archaeologist the location and the identification of any evidence of fossil bone, fossilized bone fragments, fossil bone material or evidence of casting of fossilized bone. The Tribal Archaeologist shall verify the presence of the findings and immediately provide notice to the Paleontology Department and to the Paleontologist of the SRST. Failure to report findings to the THPO is grounds for revocation of a permit.

32-908. **Notice to Revoke a Permit**

(a) The THPO may provide notice to an applicant or professional to revoke a permit because they have:

- (1) Failed to begin the work authorized under a permit, without good cause;
- (2) Failed to diligently conduct work authorized under a permit, without good cause, or;

- (3) Failed to comply with tribal law or any condition of the permit.
- (b) The notice must state the reason for the revocation;
- (c) The applicant or professional may be given the opportunity to comply with the permit.

Chapter 10. Adverse Effects

32-1001. Impacts Deemed Adverse

The following are deemed adverse effects to historic properties, cultural resources, and or areas or properties of religious and cultural significance to the SRST that include, but are not limited to the following:

- (a) Physical destruction of or damage to all or part of the property;
- (b) Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provisions of handicapped access, that is not consistent with the Secretary's Standards for the Treatment of Historic Properties {36 CFR part 68} and applicable guidelines;
- (c) Removal of the property from its historic location;
- (d) Change of the character of the property's use or of physical features within the properties setting that contributes to its historic significance;
- (e) Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features;

- (f) Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of spiritual religious and/or significance to the SRST;
- (g) Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.

32-1002. **Adverse Activities Prohibited**

The following are prohibited within the exterior boundaries of the Standing Rock Reservation:

- (a) The use of metal detectors or similar devices or collection methods to search for and obtain archeological and (or) cultural resources and artifacts;
- (b) The excavation, removal, damage, alteration or defacement of archeological and cultural resources;
- (c) Selling, purchasing, exchanging, transporting, and receiving of archeological and cultural resources;
- (d) No individual, tribal member, tribal department, agency, applicant, professional, or entity may disclose the locations of archeological and cultural resources;
- (e) No individual, tribal member or tribal department, agency or entity may initiate or conduct activity for which a SRST Cultural Resource or a Traditional Cultural Survey Permit is required unless a permit has been

issued by the THPO, including those instances where an ARPA permit has been issued by a federal agency. An ARPA permit issued by a federal land manager is not to be used in lieu of a SRST THPO permit;

- (f) No individual and no tribal department, agency, or entity shall knowingly disobey, disregard or not comply with this ordinance;
- (g) No Tribal member may sell, barter, exchange goods, or charge money for partaking in sacred Lakota/Dakota ceremonies;
- (h) The marketing or sale of sacred ceremonial items associated with the traditional Lakota/Dakota culture for financial gain is prohibited;
- (i) Commercial harvest of cultural plants that impacts are significant to the SRST;
- (j) Controlled burns by tribal and (or) federal agencies without consulting and coordinating with the THPO and Tribal Archeologist are prohibited;
- (k) Disposal of man-made waste products near or on a cultural and (or) archeological resource, stone feature, or burial. These include, but are not limited to any industrial waste products such as trash, brine water, salt water, any chemically altered water, fracking filters (also referred to as “frack socks”), fertilizer, pesticides, batteries, oil, gas, and septic waste;
- (l) Construction of a structure, building, communication/wind tower, wind farm or any infrastructure including but not limited to: new development and upgrades of roads; new placement of electrical/telephone lines and fiber optic cable; that would adversely affect the view shed of a Cultural

Landscape or the integrity of a cultural and (or) archeological resource without consulting the THPO for compliance with this Code.

Chapter 11. Determination of Effects

32-1101. Compliance with Procedures

No applicant or professional shall initiate a planned activity without first complying with this Code.

32-1102. Determination of Effect

Once a survey is complete a generated report will be sent to the THPO. The THPO and (or) Tribal Archeologist, in consultation with the professional, if applicable shall recommend a determination of the potential effect for the planned activity. This determination indicates the potential effect that the planned activity would have on the inventoried resources.

32-1103. Determination of No Historic Properties Affected

If no cultural or archaeological resources are located during the Class III survey or during a Traditional Cultural Survey and if there are no recorded or known resources or specimens in the Area of Potential Effect, then a “No Historic Properties Affected” determination should be made.

When the completion of consultation and requirements under Chapter 5 is met, the Officer may determine that the undertaking will have no effect and shall certify to the proponent that the Planned Activity may proceed.

32-1104. **Determination of Adverse Effect**

The Officer shall determine an appropriate method to avoid the adverse effect of the Planned Activity on the archaeological, cultural resource, and (or) historic properties of spiritual religious and cultural significance to the SRST upon completion of consultation and the requirements of Chapter 5.

32-1105. **Memorandum of Agreement**

(a) When the applicant and the THPO reach an agreement as to how to avoid the adverse effects on the archaeological or cultural resource, and (or) historic properties of religious and cultural significance to the SRST, the applicant and the officer shall enter into a Memorandum of Agreement (MOA). The MOA will detail the method for avoiding an adverse effect. The THPO has the option of submitting the MOA to the Advisory Council on Historic Preservation (ACHP) for review and approval as a signatory.

(b) The Memorandum of Agreement shall be subject to approval by Tribal Council.

Chapter 12. Protection of Burial Sites

32-1201. **Policy**

It is the policy of the Standing Rock Sioux Tribe to protect the burial sites as defined under 32-601.

32-1202. **Repatriation**

When human remains are discovered as a result of any planned activity, survey, or inadvertent discovery; the repatriation of human remains shall be done expeditiously, in consultation with the THPO.

32-1203. **Tribal Burial Grounds**

The preferred method for reburial is to reinter in the same location which may involve additional survey and relocation of planned activities. If the remains cannot be reinterred in the same location where they were found, they shall be moved to a location designated by the tribe or THPO.

32-1204. **Opportunity for Ceremonies**

Each restoration or re-internment shall provide an opportunity for appropriate tribal spiritual religious ceremony or rites.

32-1205. **Identity of Remains**

All human remains and/or unmarked cemeteries discovered within the Standing Rock Reservation shall be deemed Native American, unless clear and convincing evidence is presented to the THPO within forty-eight hours, from the date of discovery.

Chapter 13. Ownership

32-1301. **Ownership**

All archaeological and cultural resources found on tribal lands, are the property of the tribe. Any data generated within the exterior boundaries of the SRST remains the property of the Tribe and must be turned over to the THPO:

- (a) Confidentiality—The SRST THPO has the right to exclude from publication and/or to keep confidential any information regarding archeological and cultural resources, including properties of spiritual religious and cultural significance.

Chapter 14. Inadvertent Discovery

32-1401. Inadvertent Discovery

Any individual who uncovers or discovers human remains, or an archaeological or cultural resource within the reservation shall make every effort to protect the resource and immediately notify the THPO and all appropriate authorities. If the discovery took place in connection with a planned activity, the individual will immediately stop the activity and notify the TCS on site and the THPO. The TCS and (or) THPO will notify law enforcement officials and stay on site to secure the resource. Once a plan has been undertaken to protect or avoid the resource the THPO will notify the applicant when the planned activity may resume.

Chapter 15. Standing Rock Historic Register

32-1501. Standing Rock Historic Register

The Standing Rock Historic Register shall be established to protect sites of significance to the SRST and the Oceti Sakowin. The Standing Rock Historic Register is not accessible to any applicant or professional and shall be maintained by the SRST THPO. Any district, site, building, structure, landscape, stone feature or object with demonstrated significance to the Tribe's history, culture, spirituality, and religions shall be considered for inclusion in the Register. The THPO shall outline the requirements for demonstrated significance to be included in the Register, including any cultural resources that are present at a nominated site:

- (a) The SRST may establish an Elders Preservation Council as knowledge gatekeepers, and to administer such authority and responsibilities that may be granted to them by the Tribal Council, including but not limited to:

- (1) Establish eligibility requirements for the Register;
- (2) Accept nominations at regularly scheduled meeting when a nomination is submitted to the THPO and determine whether a nomination qualifies; and approval of the nomination to be placed on the Register;
- (3) Maintain a Register of significant sites identified within the Standing Rock Sioux Tribe and Oceti Sakowin homelands to be archived at the SRST THPO;
- (4) Promote gathering of oral history and oral knowledge of these nominated sites so they may be preserved for future generations;
- (5) Establish and assist the SRST Tribal Education Department and the SRST in developing school curriculum regarding the history of these sites that are on the Register as well as Oceti Sakowin history.

Chapter 16. Archeological Resources Protection Act

32-1601. Indian and Public Land

The Archaeological Resource Protection Act (ARPA) prohibits the unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources on Indian and public land. ARPA also prohibits the selling, purchasing, exchanging, transporting, and receiving of these archaeological resources.

For the purpose of this Code, the requirements contained in 43 CFR part 7 shall govern the actions of the SRST and any Federal land manager whose lands of their respective jurisdiction is within the Standing Rock Reservation and where a violation to this Code occurred.

Civil and Criminal penalty shall be assessed by the Federal land manager on Public lands should a violation occur. The Federal land manager shall assess a civil penalty upon expiration of the period for filing a petition for relief:

- (a) On Tribal lands within the jurisdiction of this ordinance, the unauthorized excavation, removal, damage, alteration, defacement, sale, purchase, exchange, transportation or receipt of archeological and Cultural Resources including stone arrowhead(s) or projectile points is prohibited.

32-1602. **ARPA Violation**

Any individual who violates any prohibition in the ARPA may be assessed a civil penalty and imprisonment by federal authorities. The penalty will be determined under regulations of this Act, and may include forfeitures of vehicles and equipment involved in the violations:

- (a) Forfeiture of Vehicles and Equipment due to an ARPA violation:

- (1) All vehicles and equipment seized by law enforcement or a regulatory department of the SRST as a result of an ARPA violation shall become the property of the SRST THPO;
- (2) Any confiscated resources or materials will be turned into the SRST THPO who shall determine disposition of resources;
- (3) The SRST is not liable for continuing payments on any seized properties that are seized during an ARPA violation. These may include: vehicles, all-terrain vehicles, GPS units, lap tops, phones, metal detectors, screens, shovels, and other equipment used during the illegal activity;
- (4) ARPA also prohibits the selling, purchasing, exchanging, transporting, and receiving of these archaeological resources;

- (b) Additionally, no applicant, professional, or individual who knowingly violates the confidentiality or counsels, procures, solicits, assists in any prohibition of the ARPA will be subject to the penalties and fines in this Code.

Chapter 17. Enforcement

32-1701. Enforcement

The provisions of this Code and regulations, permits and penalties shall be enforced by the THPO, Tribal Police, Bureau of Indian Affairs (BIA) Law enforcement and when applicable, the Tribal Game and Fish, DER/EPA, the Land Management Department, the Tribal Attorney, the Tribal Prosecutor, the US Attorney, or any other law enforcement agency, P.L. 93-638 Tribal Contract Program enforcement, or officials duly authorized to enforce this Code:

- (a) Court Jurisdiction. The Tribal Court shall have original civil and criminal jurisdiction over any actions arising under this Code. The Tribal Court shall have the authority to issue such orders as may be necessary to enforce the provisions of this Code;
- (b) Review. All discretionary decisions of the THPO are subject to review by the SRST Legal Department;
- (c) Civil Actions. The Tribe may bring a civil action against any individual who is alleged to have violated this Code;
- (d) Civil Remedies. After notice and an opportunity to be heard, any individual found by a court of competent jurisdiction to have violated this Code may be subject to the following civil remedies:

- (1) The modification, suspension, or revocation of any permit issued under this Code; provided that, the Tribe shall not be liable for the payment of any compensation, reimbursement, or damages in connection with the modification, suspension, or any revocation of any permit issued under this Code;
- (2) Restraining orders, injunctions, and mandamus, including but not limited to the forfeiture, return, and restoration of Cultural Resources adversely affected;
- (3) Damages, including costs of enforcement proceedings and the return, restoration, or disposition of Cultural Resources involved;
- (4) exclusion from the SRST;
- (5) attorneys' fees and costs to the prevailing party; and,
- (6) all other non-punitive remedial relief.

(e) Criminal Actions. The Tribal Prosecutor shall be responsible for criminal prosecutions under this Code.

(f) Criminal Penalties. Tribal members and non-member Indians who knowingly violate this Code shall, upon conviction, be fined in accordance with the penalty section of ARPA. Each violation of this Code shall be a separate offense. Criminal offenders may also be subject to civil remedies set forth in this Code;

(g) Monetary Damages and Penalties to the SRST THPO. All monetary damages and penalties assessed under this Code shall be deposited into a SRST-THPO account and shall be used solely for the implementation and enforcement of this Code;

(h) Sovereign Immunity is not waived. Nothing in this Code is intended to be nor shall it be construed as a waiver of tribal sovereign immunity from suit.

Chapter 18. Violations and Fines

32-1801. Processing Violations

The SRST shall process penalties and costs associated with violations that are prosecuted in a competent court of law. The fines associated with the violations of this Code are listed in the table attached to this Code.

32-1802. Determining Jurisdictions

Notwithstanding any provisions of this Code, the jurisdiction will be determined by where the violation occurred in cooperation with the Federal land manager, BIA and the THPO. The ARPA law shall have precedence on Tribal/Trust, allotted or public lands. Violations occurring on private/fee lands as defined by this Code will be prosecuted in Tribal Court and treated as Tribal lands as defined in NHPA.

32-1803. Severability

If a provision of this Code is or becomes illegal, invalid, or unenforceable in any jurisdiction, that shall not affect:

- (a) the validity or enforceability in that jurisdiction of any other provision of this Code or federal law; or
- (b) the validity or enforceability in other jurisdictions of that or any other provision of this Code or Federal law.

Chapter 19. Violations and Fees

**STANDING ROCK SIOUX TRIBE
TITLE XXXII VIOLATIONS**

Statute	Impact to Resource	Violator
Title 32	Accidental/Negligence	Individual/Company
<u>32-1801.(a)</u>	The excavation, removal, damage, alteration, or defacement of archeological and (or) cultural resources	
1st offense	seizure of equipment and \$10,000	Individual- Up to \$100,000 Company- Up to \$5 million and expulsion from Tribal lands
2nd offense	seizure of equipment and \$50,000	Individual- Up to \$5 million Company- Up to \$50 million and expulsion from Tribal land
<u>32-1802.(a)(2)</u>	Use of metal detectors on tribal and public land	
1st offense	seizure of equipment and \$10,000	Individual-\$500 Company-\$10,000
2nd offense	seizure of equipment and \$50,000	Individual-Up to \$10,000 and expulsion from the tribal land Company-Up to \$100,000 and expulsion from Tribal land
<u>32-1802.(a)(4)</u>	Selling, purchasing, transporting, and receiving of archeological and cultural resources	
1st offense	seizure of equipment and \$50,000	Individual-Up to \$100,000 Company-Up to \$5 million dollars expulsion from Tribal land

2nd offense	seizure of equipment and \$100,000	Individual-Up to \$5 million and Company-Up to \$50 million and expulsion from Tribal land
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32-1802.(b) No individual, Tribal member or Tribal Department, Agency, or Entity may disclose the locations of archeological and cultural resources

1st offense	Individual-\$500 Company-\$10,000
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2nd offense	Individual-Up to \$10,000 and expulsion from Tribal land Company-Up to \$100,000 and expulsion from Tribal land
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32-1003. General Permit Violations

1st offense	seizure of equipment and \$10,000	Individual-Up to \$100,000 Company-Up to \$5 million dollars and expulsion from Tribal land
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2nd offense	seizure of equipment and \$50,000	Individual-Up to \$5 million Company-Up to \$50 million and expulsion from Tribal land
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32.1102 (k) Illegal Disposal

1st offense	Treatment/Restoration	Up to \$ 500 million dollars and expulsion from Tribal lands
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32.1102 (l) Illegal Construction

1st offense	Post-assessment/treatment	Up to \$500 million dollars and expulsion from tribal lands
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PENALTIES LEVIED ARE AT THE DISCRETION OF THE SRST TRIBAL COUNCIL AND/OR THE SRST THPO.



STANDING ROCK SIOUX TRIBE
ARCHEOLOGICAL PERMIT APPLICATION

1. Name of Principal Investigator or Archeological Company:

Address: _____

Telephone: _____

Cell Phone: _____

Email: _____

2. On an attachment list the name(s) of the principal investigator(s) and all personnel who will perform the duties to be conducted under this permit including file searches. Please attach a standard vita or resume for each of these individuals. Every individual who conducts work under this permit will be required to sign a confidentiality agreement.

3. On an attachment, provide a map of the project and project area.

4. On an attachment, delineate the project boundaries by township-range-section, USGS map, UTM coordinates (NAD 83 if available) and GIS data.
5. Proposed beginning and ending dates of project:
6. Type of Permit applied for (check one):

___ a. Class I Literature Search: \$100.00 per day. If the company or agency wishes to come to the THPO Office to conduct the Class I Literature Search the \$100.00 fee will be waived. This fee is waived if the project requires survey and will be considered part of the survey permit fee. This fee is subject to change due to time constraints and availability of staff.

___ b. Survey permit required by the Standing Rock Sioux Tribe for cultural resource investigations per project requiring one day of survey: \$700.00

___ c. Survey permit required by the Standing Rock Sioux Tribe for cultural resource investigations per project requiring up to two days of survey: \$1000.00

___ d. Survey permit required by the Standing Rock Sioux Tribe for cultural resource investigations requiring three days of work and beyond: \$1200.00 base fee plus an additional \$200.00 per day.

Permit fees must be paid by check. Make payable to the:

SRST Tribal Historic Preservation Office
PO Box D
Fort Yates, ND 58538

7. Read and sign the following:

Application is herewith made for a permit to conduct a cultural resource investigation within the exterior bounds of the Standing Rock Sioux Reservation. I affirm that the information provided above and as attachments is complete and correct to the best of my knowledge.

Signature of applicant or authorized representative

8. Statement:

The undersigned certifies that the foregoing information is true and correct.

Signature

Subscribed and sworn to before me this _____ day of _____, _____.

Notary or Authorized Signature: _____

SEAL

SRST internal use only

Received By: _____

Date Received: _____

Action Taken: _____

Date: _____



STANDING ROCK SIOUX TRIBE
REQUEST FOR ARCHEOLOGICAL SURVEY WORK
TO BE CONDUCTED BY THE SRST-THPO:

1. Name of Requestor:

Address: _____

Telephone: _____

Cell Phone: _____

Email: _____

2. On an attachment, provide a map of the project and project area.

3. On an attachment, delineate the project boundaries by township-range-section, USGS map, UTM coordinates (NAD 83 if available) and GIS data (if available).
4. Proposed beginning and ending dates of project:
5. Type of Permit applied for (check one):

a. Class I Literature Search: \$100.00 per day.

b. Survey permit required by the Standing Rock Sioux Tribe for cultural resource investigations per project requiring one day of survey: \$700.00

c. Survey permit required by the Standing Rock Sioux Tribe for cultural resource investigations per project requiring up to two days of survey: \$1000.00

d. Survey permit required by the Standing Rock Sioux Tribe for cultural resource investigations requiring three days of work and beyond: \$1200.00 base fee plus an additional \$200.00 per day

Permit fees must be paid by check. Make payable to the:

SRST Tribal Historic Preservation Office
PO Box D
Fort Yates, ND 58538

6. Read and sign the following:

Application is herewith made for a permit to conduct a cultural resource investigation within the exterior bounds of the Standing Rock Sioux Reservation. I affirm that the information provided above and as attachments is complete and correct to the best of my knowledge.

Signature of applicant or authorized representative

7. Statement:

The undersigned certifies that the foregoing information is true and correct.

Signature

Subscribed and sworn to before me this ____ day of _____, _____.

Notary or Authorized Signature: _____

SEAL

SRST internal use only

Received By: _____

Date Received: _____

Action Taken: _____

Date: _____



STANDING ROCK SIOUX TRIBE
TRADITIONAL CULTURAL SURVEY PERMIT APPLICATION

1. Name of Oceti Sakowin member or Company:

Address: _____

Telephone: _____

Cell Phone: _____

Email: _____

2. On an attachment list the name of the Oceti Sakowin enrolled member or provide proof of 51% Indian ownership of firm/company if the individual is applying for a company whose Tribe is a member of Oceti Sakowin and all personnel who will perform the duties to be conducted under this permit including file searches. Please attach a standard resume for the individual(s) who the permit is provided for conducting survey work on the

Standing Rock Reservation. Every individual who conducts work under this permit will be required to sign a confidentiality agreement.

3. On an attachment, provide a map of the project and project area.
4. On an attachment, delineate the project boundaries by township-range-section, USGS map, UTM coordinates (NAD 83 if available) and GIS data (if available).
5. Proposed beginning and ending dates of project:
6. Type of Permit applied for (check one):
 - ___ a. Class I Literature Search: \$100.00 per day.
 - ___ b. Survey permit required by the Standing Rock Sioux Tribe for Traditional cultural survey per project: \$200.00

Permit fees must be paid by check. Make payable to the:

SRST Tribal Historic Preservation Office
PO Box D
Fort Yates, ND 58538

7. Read and sign the following:

Application is herewith made for a permit to conduct a cultural resource or Traditional Cultural Survey within the exterior bounds of the Standing Rock Sioux Reservation. I affirm that the information provided above and as attachments is complete and correct to the best of my knowledge.

Signature of applicant or authorized representative

8. Statement:

The undersigned certifies that the foregoing information is true and correct.

Signature

Subscribed and sworn to before me this _____ day of _____, _____.

Notary or Authorized Signature: _____

SEAL

SRST internal use only

Received By: _____

Date Received: _____

Action Taken: _____

Date: _____

Definitions

1. **Applicant**:

(a) For a **federal undertaking**:

- (1) a professional who meets the Secretary of Interior's Qualifications seeking to undertake a planned activity on behalf of a federal agency, or to conduct archeological research within the exterior boundaries of the reservation on behalf of the federal agency or;
- (2) a federal employee requesting a survey to be conducted by the THPO on behalf of a federal agency.

(b) For a **non-federally planned activity**:

- (1) a company representative not affiliated with a federal agency requesting a survey to be conducted by the THPO or;
- (2) an individual requesting a survey to be conducted by the THPO or;
- (3) a professional requesting to conduct a survey on behalf of an individual.

2. **Archaeological Resource** - Any material evidence of human life, activities or remains that are at least 50 years of age or older.

3. **Area of Potential Effect (APE)** - The geographic area or areas where a planned activity may directly or indirectly impact a landscape. These impacts include but are not limited to: audio or visual effects and to the character or use of any archeological or cultural resource whether beneficial or adverse.

4. **Burial Site** - Any natural or prepared physical location, in which a part of the death rite or ceremony of a culture was conducted for an individual.

5. **Categorical Exclusion** - A project type agency officials believe has little potential to impact a property. The SRST THPO determines the applicability of a categorical exclusion.
6. **Class I Survey** - A literature and file search for documents concerning the area of potential effect.
7. **Class II Survey** - A reconnaissance survey concerning the area of potential effect that is conducted before the Class III Survey, employed at the discretion of the THPO.
8. **Class III Survey** - An intensive pedestrian survey, under which a permitted qualified professional walks the area and carefully examines the project area. With each survey team there must be at least one archaeologist meeting the Federal Register Part IV vol. 48, no. 190 (44738-44739) qualifications and one TCS per team.
9. **Code** - Any time the word “code” is used in this document, it refers to the Standing Rock Code of Justice, of which this Cultural Resource Code (Title XXXII) is a part of.
10. **Consultation** - The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process between an Indian Tribe, federal agencies, local governments and tribal programs. Tribal programs are required to contact and consult the THPO prior to implementing a planned activity.
11. **Cultural Landscape** - According to the National Park Service (NPS), a cultural landscape is defined as, "a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values." There are four general types of cultural landscapes, not mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.
12. **Cultural Patrimony Objects** - Refers to any objects, artifacts, materials with ceremonial, cultural, historical, sacred, spiritual, or traditional value to the SRST and (or) the Oceti Sakowin.

13. **Cultural Plants** - Refers to any plant, tree, shrub, herb, fruit, and (or) vegetation with ceremonial, cultural, historical, sacred, spiritual or traditional value to the SRST (or) the Oceti Sakowin.

14. **Cultural Resource** - Any product of human creation or activity or any object or place given significance by human action, knowledge or belief. Cultural Resources include buildings and other structures, land forms, archaeological sites, traditional cultural properties, and districts. This also includes, but is not limited to, pottery, basketry, weapons, projectiles, tools, structures, rock paintings, graves, human skeletal material, organic waste, by-products from manufacture, landscape, rock cairn, burial mound, rock shelters, apparel, shipwreck, or any part of the above items, land site, sacred site, stone feature site, fossilized bone, human skeletal and tissue material, and/or animal skeletal and tissue material, any textile material or animal skin or parts, including natural organic and inorganic material; and may include intangible resources that represent the Lakota/Dakota language, oral history and oral knowledge, as well as Lakota/Dakota place names of landscapes, drainages and water ways.

15. **Cultural Site** - Sites of archeological, ceremonial, cultural, historical, sacred, spiritual or traditional significance to the SRST and (or) Oceti Sakowin. It includes tribal ancestral burial grounds, cemeteries, and burials whether marked or unmarked.

16. **Federal Undertaking** - A project, activity or program under the direct or indirect jurisdiction of a federal agency that can result in changes in the character or use of historic and archaeological properties. It includes any project, activity, or program that is carried out by or on behalf of the federal agency; is financed in whole or in part with federal assistance; requires a federal and Tribal permit, license or approval, including any agency authority to disapprove or veto the project, activity, or program; or is subject to state or local regulation administered pursuant to a delegation or approval by a federal agency. Federal undertaking includes new and continuing projects, technical assistance including federal financial assistance, activities, or programs, renewal or pre-approvals of such assistance, activities or programs.

17. **Fee/Private Land into Trust** – means fee or private lands purchased by the SRST located within the exterior boundaries of the Standing Rock Reservation that hasn't yet attained the status of BIA administered trust lands; provided, for the purpose of this Code, fee or private lands purchased by the SRST will be treated as trust land if eligible to be placed into Federal trust status.

18. **Funerary Object** - Any object, artifact, or materials which are believed to have been placed with a deceased individual.
19. **Head of the Agency** - The chief official of the federal agency responsible for all aspects of the agency's actions. If a state, local or tribal government has assumed or has been delegated responsibility for Section 106 compliance, the head of that unit of government shall be considered the head of that agency.
20. **Historic Property** - A prehistoric or historic district, site, building, tribal cultural site, or structure eligible for inclusion in the National Register of Historic Places (NRHP) and/or the Standing Rock Historic Register (SRHR).
21. **Indian Tribe** - An Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
22. **Land Exchange** - An exchange or transfer of: land title, ownership, partitioned, fractionated interest, allotment land, or, tribal land of the SRST, to an allottee or person having a right of possession to alienate tribal/trust, allotted, private or fee land under the fifth amendment of the US Constitution, or Tribal Constitution, between the SRST and applicant.
23. **Local government** - A local district of the SRST, city, county, parish, township, municipality, borough, or other general purpose political subdivision of the SRST or State.
24. **Memorandum of Agreement (MOA)** - A document that records terms and conditions to mitigate effects to a cultural/archeological resource as well as how the project will be managed. This document is then agreed to by the tribal, federal agencies, and other entities or agencies.

25. **National Register of Historic Places (NRHP)** - The list maintained by the Secretary of the Interior pursuant to the National Historic Preservation Act 16 U.S.C. 470-et seq.
26. **New Cultivation** - An agricultural operation that would cultivate land that had not been cultivated or has been idle for more than five years.
27. **Oceti Sakowin** - The original Sioux tribe was made up of Seven Council Fires. Each of these Council Fires was made up of individual bands, based on kinship, dialect and geographic proximity. The Seven Council Fires are:

- (1) **Mdewakanton** - Dwellers by the Sacred Lake
- (2) **Wahpekute** - Shooters Among the Leaves
- (3) **Sisitonwan/Sisseton** - People of the Marsh
- (4) **Wahpetonwan** - Dwellers Among the Leaves
- (5) **Ihanktowan/Lower Yanktonai** - People of the End
- (6) **Ihanktowana/Upper Yanktoni** - People of the Little End
- (7) **Tetonwan** - People on the Plains

The seven bands of the **Tetonwan** or *Teton* group are:

- (1) **Hunkpapa** - Camps at the Horn (Standing Rock & Wood Mountain, Canada)
- (2) **Sicangu/Brule'** - Burnt Thigh (Rosebud & Lower Brule)
- (3) **Itazipo/Sans Arc** - Without Bows (Cheyenne River)
- (4) **Sihasapa** - Blackfeet (Cheyenne River & Standing Rock)
- (5) **Oglala** - Scatters His Own (Pine Ridge)
- (6) **Oohenumpa** - Two Kettles (Cheyenne River)
- (7) **Mniconjou** Planters by the River (Cheyenne River)

28. **Oceti Sakowin Member** - An individual enrolled member of a federally recognized tribe of Oceti Sakowin.

29. **Oceti Sakowin Traditional Cultural Specialist (OS TCS)** - An enrolled member of an Oceti Sakowin federally recognized tribe that is able to qualify for a Traditional Cultural Survey Permit.
30. **Officer** - The Tribal Historic Preservation Officer.
31. **Planned Activity** - Any federal undertaking or any construction project, mining activity, land exchange or other project that disturbs the earth that has the potential to unearth or impact cultural resources and that is:
- (a) Conducted by an applicant on all lands within the exterior boundaries of the SRST as defined under 32-701. of this Code or a professional where such activity has a direct effect on the resources, spiritual/sacred practices, ceremonies, political integrity, the economic security or the health and welfare of the Standing Rock Sioux Tribe;
32. **Professional** - A person qualified under the Department of Interior’s Guidelines, Federal Register Part IV Vol. 48, No. 190 (44738-44739) to conduct any Archaeological survey, investigation, or excavation of a site. These qualifications are: a minimum of a graduate degree in archeology, anthropology, or closely related field plus at least one year of full-time professional experience in archaeology.
33. **Programmatic Agreement (PA)** - A document developed during the Section 106 process of NHPA that records terms and conditions to mitigate effects to a cultural/archeological resource as well as how the project will be managed; this document is then agreed to by the tribal government, the federal agency and other interested parties.
34. **Re-internment** - The tribal ceremonial or ritual reburial of dis-interred human and (or) cultural remains.
35. **Repatriation** - The physical return of any human and (or) cultural remains to the Tribe.
36. **Site** - A natural, physical, geographic area, place, location, whether on, below or above the surface of the earth. It may also reference a building, structure, facility, landscape made, prepared or produced by humans.

37. **Standing Rock Historic Register (SRHR)** - The registry is a list of cultural and archeological resources that are significant to the tribe's history, culture and religion. This registry is maintained by the Tribal Historic Preservation Office.
38. **Traditional Cultural Specialist (TCS)** - An Oceti Sakowin tribal member who has completed a SRST THPO facilitated NHPA Section 106 Tribal identification course and shall represent the THPO in an official capacity on project sites. The Standing Rock Sioux Tribe has discretionary authority in selecting who shall represent THPO as a TCS.
39. **Tribal Council** - The Standing Rock Sioux Tribal Council.
40. **Tribe** - The Standing Rock Sioux Tribe.
41. **Tribal Historic Preservation Office (THPO)** - The Office created by the Tribal Council, to preserve and protect the archaeological and cultural resources located on the Standing Rock Sioux Indian Reservation.
42. **Tribal Lands** - All lands within the exterior boundaries of the Standing Rock Sioux Indian reservation as defined by the Constitution of the Standing Rock Sioux Tribe, Article I, the Native American Graves Protection and Repatriation Act of 1990 and the National Historic Preservation Act of 1966.
43. **View Shed** - An area of land, water, or other environmental element that is visible to the human eye from a fixed vantage point.

REGULAR TRIBAL COUNCIL MEETING
INTER-OFFICE FOLLOW-UP

MEETING DATE: January 6, 2015

PAGE: 12

MOTION #23 IS CONTINUED.

VOTE: YES – 6 NO – 5 NOT VOTING – 3

MOTION CARRIED 3 – EXCUSED

#24. MOTION WAS MADE BY JOE DUNN, SECONDED BY FRANK WHITE BULL, TO APPROVE OF THE RE-CLASSIFICATION FOR THE OFFICE MANAGER [ADMINISTRATIVE ASSISTANT] AT GRADE 13 OR SALARY RANGE OF \$36,963.00 - \$46,204.00 FOR THE TERO DEPARTMENT AND TO ADVERTISE.

ROLL CALL VOTE: ARCHAMBAULT, II, DAVE – NOT VOTING

BROWN OTTER, Milton	YES	ARCHAMBAULT, Paul	YES
CLAYMORE, Duane	YES	BROWN OTTER, Ron	EX.
DUNN, Joe	YES	LITTLE EAGLE, Avis	YES
HARRISON, “Ben” Samuel	YES	MCLAUGHLIN, Jesse	YES
TAKEN ALIVE, Robert	YES	TAKEN ALIVE, Jesse	EX.
TWO BEARS, Cody	YES	WHITE, Adele	YES
WHITE BULL, Frank	YES	WHITE, Sr., Randal	NO
WHITE MOUNTAIN, Jr., Joseph	EX.	YOUNG, Phyllis	YES

VOTE: YES – 12 NO – 1 NOT VOTING – 1

MOTION CARRIED 3 – EXCUSED

#25. MOTION WAS MADE BY JOE DUNN, SECONDED BY PAUL ARCHAMBAULT, TO APPROVE TO AMEND MOTION #15 OF DECEMBER 11, 2014 TRIBAL COUNCIL MEETING MINUTES WHICH STATES: *TO APPROVE OF TITLE XXXII-CULTURAL RESOURCE CODE* AND TO ADD, **BY RESOLUTION**.

ROLL CALL VOTE: ARCHAMBAULT, II, DAVE – NOT VOTING

BROWN OTTER, Milton	YES	ARCHAMBAULT, Paul	YES
CLAYMORE, Duane	YES	BROWN OTTER, Ron	EX.
DUNN, Joe	YES	LITTLE EAGLE, Avis	YES
HARRISON, “Ben” Samuel	YES	MCLAUGHLIN, Jesse	N.V.
TAKEN ALIVE, Robert	YES	TAKEN ALIVE, Jesse	EX.
TWO BEARS, Cody	YES	WHITE, Adele	YES
WHITE BULL, Frank	YES	WHITE, Sr., Randal	YES
WHITE MOUNTAIN, Jr., Joseph	EX.	YOUNG, Phyllis	YES