

**RULES
OF
TENNESSEE DEPARTMENT OF CONSERVATION
DIVISION OF STATE PARKS
AND
RECREATION**

**CHAPTER 0400—2—9
MANAGEMENT OF TENNESSEE
ARCHAEOLOGICAL AREAS**

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0400—2—9—.01 CULTURAL AREAS. Cultural areas contain archaeological, historical, and environmental features which are desirable for protection, interpretation, and educational enjoyment. Because of an area's past association with significant people and events of Tennessee, or its contribution to the appreciation and knowledge of the state's archaeological heritage, these areas will be acquired and exhibited as components of the overall Tennessee Outdoor Recreational Area System (TORAS).

Authority: T.C.A. § 11-1501, 11-1508, 11-1510, 4-317. *Administrative History:* Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.02 APPLICABILITY AND SCOPE. To assure the preservation of areas designated as Archaeological Areas throughout the facilities provided, the following rules and regulations governing public use are adopted under the following authority: Tennessee Code Annotated § 11-1501, § 11-1504, § 11-1505, § 11-1506, § 11-1508, and § 11-1512.

Authority: T.C.A. § 11-1501, 4-317. *Administrative History:* Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.03 DEFINITIONS.

- (1) The following definitions shall apply to these regulations:
 - (a) The term "Artifact" shall mean all relics, specimens or objects of a historical, prehistorical, archaeological, or anthropological nature which may be found above or below the surface of the earth, and which have scientific or historic value as objects of antiquity, as aboriginal relics, or as archaeological specimens.
 - (b) The term "Site" shall mean any location of historic or prehistoric human activity such as, but not restricted to, mounds, forts, earthworks, burial grounds, structures,

(Rule 0400—2—9—.03, continued)

- villages, mines, caves, and all locations which are or may be sources of paleontological remains.
- (c) The term “Archaeological Area” shall mean the study of the traces of human culture, any land or water site by means of photographing, mapping, surveying, digging, sampling, excavating, and removing artifacts or other archaeological material or going on a site with that intent.
 - (d) The term “Field Archaeology” shall mean the Director of the Division of Archaeology who is authorized to initiate, operate, and maintain a statewide program in Archaeology.

Authority: *T.C.A. Chapter 15, § 11-1505, 11-1506, 11-1512, 4-317. Administrative History: Original Rule filed April 10, 1979, effective July 30, 1979.*

0400—2—9—.04 PENALTIES. Any violation of these rules of management of such properties will be subject to the following penalty:

- (1) Unauthorized excavation-Misdemeanor-Title 1; Chapter 15, § 11-1505. The State of Tennessee reserves to itself the exclusive right and privilege of field archaeology or lands, institutions, and commissions in order to protect and preserve archaeological and scientific information matter and artifacts. No person or organization, including any other agents or agencies of the State of Tennessee, unless acting as a duly authorized agent of the Division of Archaeology shall excavate upon any site situated on lands owned or controlled by the State of Tennessee or any agency thereof. All artifacts, photographs and records obtained on state properties, or state controlled properties, shall remain the property of the State Division of Archaeology subject to the decision of the State Archaeologist and the Advisory Council, and shall be maintained in public repositories to be agreed upon. Any person, corporation, society, or organization conducting explorations or excavations upon lands owned or controlled by the State or any agency thereof without having first obtained a permit from the State Archaeologist shall be guilty of a misdemeanor.
- (2) Defacement of Sites or Artifacts-Misdemeanor-Title I; Chapter 15, § 11-1506. In order that sites and artifacts on State owned or controlled land shall be protected for the benefit of the public, it is hereby made a misdemeanor for any person, natural or corporate, to write upon, carve upon, paint, deface mutilate, destroy, or otherwise injure any objects of antiquity, artifact, Indian painting, Indian carving, or sites and all such acts of vandalism shall be punished as misdemeanors according to provisions of this chapter.
- (3) Violations-Penalties-Title I; Chapter 15, § 1512. All acts expressly declared herein to be illegal, prohibited or deemed misdemeanors shall, upon conviction of the person for engaging in the conduct thus prescribed, be punished as misdemeanors, and the person guilty thereof shall for each violation be fined not less than \$50.00 nor more than \$200.00 or imprisoned in the County jail for not less than 10 days or more than 6 months, or both.

Authority: *T. C. A. § 4-317, 11-1505, 11-1506, 11-1512. Administrative History. Original Rule filed April 10, 1979, effective July 30, 1979.*

0400—2—9—.05 UTILIZATION.

- (1) There shall be written general development guidelines and/or a Master Plan for each archaeological area. The Department shall consult, through public information hearings, with citizens' organizations as well as Federal, State, and Municipal agencies in preparation of these plans as much as possible.

(Rule 0400—2—9—.05, continued)

- (2) Management of each archaeological area shall be in accordance with these rules except for deviations as may be provided in the Master Plan for the particular area.
- (3) Whenever it is required by development guidelines and/or the area Master Plan that there be a deviation from the files in the management of an archaeological area such deviation shall be set forth in detail, together with the reasons thereof, in the Master Plan. A deviation from these rules shall take effect only upon approval by the State Archaeologist, State Historic preservation officer, and the Commissioner of Conservation.

Authority: T.C.A. § 4-317, 11-303. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.06 ADMINISTRATION AND CUSTODY. The form and method of administration and custody of each archaeological area shall be designated in the Master Plan. Each archaeological area shall have a manager who shall administer, manage, and protect the area in accordance with these rules and the Master Plan. The Master Plan shall designate an agency to manage the area and shall recommend whether or not an individual manager is needed full time in the area. (If not otherwise provided in the Master Plan, the owner of an archaeological area shall have custody.) In such TORAS areas where archaeological research facilities are proposed or included, there will be a professionally qualified archaeologist and staff assigned to the Division of Archaeology who will administer all archaeological research in each archaeological area. Archaeological resources, such as features and artifacts, shall also be under the custody and jurisdiction of the Division of Archaeology.

Authority: T. C. A. § 4-317, 11-1504, **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.07 INDUSTRIES.

- (1) Intrusions are those areas, structures or works of man than cause a negative impact upon the character of the archaeological area or the experience the area offers to its users.
- (2) There shall be no development of structures, rights-of-way, or other land uses or facilities which do not conform with the purposes and definition of an archaeological area as specified in the respective acts or these rules for management except for intrusions that are permitted by the guidelines for development, as provided in Rule 0400—2—8—.05.
- (3) Any environmental intrusion not necessary for the public use or well being or for the management of the area and which is of such nature that it can be excluded shall be so removed. This includes, but is not limited to, removing and revegetating roads, relocating power lines, removing buildings, dams, and trash dumps.

Authority: T.C.A. § 4-317, 11-1505, 11-1506. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.08 PUBLICITY. Information about Tennessee Archaeological areas and appropriate descriptive material shall be developed and made available to all interested persons. Publicity shall be avoided which would tend to induce the general public to visit an area, except to such extent as is compatible with the maximum desirable visitor use for the area as established by the Master Plan.

Authority: T.C.A. § 4-317, 11-1501. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.09 BOUNDARY MARKERS. Archaeological resources area boundaries shall be made clearly evident by placing survey monuments at corners or other strategic locations by posting boundary

(Rule 0400—2—9—.09, continued)

markers at intervals not less than 200 feet, except by fencing or other means. Boundary marker signs shall be as the Department may establish.

Authority: T.C.A. § 4-317. *Administrative History:* Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.10 BOUNDARY FENCES. Necessary boundary fences and barriers may be installed as provided in the Master Plan. Generally they shall not be in a form that will create a detrimental effect on movement of wildlife, air circulation, other natural or aesthetic conditions, or cause public opposition.

Authority: T.C.A. § 4-317. *Administrative History:* Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.11 ROADS.

- (1) Service Roads. Vehicular access lanes shall be installed and maintained within Archaeological Areas only where essential for patrol, fire control, or other management or research activities and in accordance with the Master Plan. Such lanes shall be closed to all except service and emergency vehicles. They shall provide a single track and clearing shall not extend more than seven feet on each side of the center of the lane. Existing roads no longer necessary for management purposes shall be treated as intrusions per 0400—2—9—.07.
- (2) Public Access Roads.
 - (a) Public access roads will be installed and maintained only when needed to provide for visitor utilization of the area. Installation of these roads will be in accordance with rules 0400-2-9-.22. These roads will be constructed subject to the following criteria:
 - (b) Road development in all Archaeological Areas shall be limited to the minimum necessary to provide access for the maintenance and/or public use of the area. Roads shall be designed with extreme care and located with a concern for the archaeological resources.
 - (c) Roads in Archaeological Areas shall be constructed for design speed not to exceed twenty-five miles per hour. Excessive cuts and fills shall be avoided. The width of the roadways shall not exceed eighteen feet. Shoulders of the roadway shall not exceed one foot in width on each side. Two additional feet of shoulder will be allowed where guard rails are needed for safety purposes. The design of all structures – bridges, tunnels, grade separation devices, retaining walls – shall be aesthetically pleasing as well as functional. Grades of up to 10% shall be used where needed for short distances. Gravel surfaced roads shall be used when practical, in keeping with the primitive character of Archaeological Areas. Asphalt or concrete surfacing may be used where heavy use will make gravel surfacing impractical or when the safety of the visitor is involved.
 - (d) Careful attention shall be given to the impact that roads will have on archaeological features in the planning phase of Archaeological area development. Road construction will not be initiated if during this phase it is determined that the impact will be negative to the character of the area. The Division of Archaeology shall carefully weight such values as drainage, archaeological features, scenic features, noise levels, and stream flow as well as other natural characteristics of the area before determining whether a road is to be built. The exact route of the proposed road shall be inspected at the site to insure that all natural and archaeological features have been considered.

(Rule 0400—2—9—.11, continued)

Authority: T.C.A. § 4-317, 11-1505, 11-1506, 11-1507. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.12 FIREBREAKS. Necessary boundary firebreaks shall be constructed in a buffer area outside the area. Firebreaks within an area shall be kept to a minimum and shall not exceed ten feet in width and shall be constructed only in accordance with the Master Plan.

Authority: T.C.A. § 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.13 TRAILS. Location, form, and plan of any trails, other than natural wildlife paths, shall be specified in the Master Plan and conform to the objectives of the Archaeological Area. Trails shall be adequate to prevent erosion, trampling of archaeological features, trampling of vegetation and other deterioration, but otherwise shall be kept to a minimum. Use of tread materials, footbridges, and elevated walks is permissible when necessary to protect archaeological features provided for in the Master Plan.

Authority: T.C.A. § 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.14 SIGNS. A signing system for each Archaeological Area will be specified in each Master Plan and developed per the guidelines of the T.O.R.A.S. signing program.

Authority: T.C.A. § 4-317, 11-1406, and 11-1704. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.15 OTHER STRUCTURES AND IMPROVEMENTS. Necessary signs, trash receptacles, and structures are permitted if provided for in the Master Plan or in a permit for research activities. All structures and service facilities shall be located in such styled, standards, and numbers as the Department and the Division of Archaeology may establish.

Authority: T.C.A. § 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.16 BUFFER AREAS. Buffer areas shall be established around Archaeological Areas wherever possible in order to eliminate the adverse effects of external influences. Such areas may be devoted to uses other than archaeological preservation which do not adversely effect the Archaeological Area. Buffer areas may be controlled by ownership, easement, cooperative agreement, and other appropriate means. Criteria for buffer areas shall be included in the Master Plan. Authorization is given for the establishment of buffer areas in Tennessee Code Annotated, § 11-1801 *et seq.*

Authority: T.C.A. § 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.17 SERVICE AREAS. Wherever possible, service areas should be established to provide access and parking, management facilities, and visitor facilities. Provisions for necessary service areas shall be included in the Master Plan.

Authority: T.C.A. § 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.18 SAFETY HAZARDS. Guardrails, fences, steps and other devices necessary for visitor safety shall be installed as provided in the Master Plan.

(Rule 0400—2—9—.18, continued)

Authority: T.C.A. § 4-317. **Administrative History.** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.19 REMOVAL OR INTRODUCTION OF OBJECTS. There shall be no removal of any archaeological materials, artifacts, or other related objects from an Archaeological Area. Collecting of artifacts will not be permitted unless authorized by the State Archaeologist through the issuance of a permit. No natural or man-made object or feature that could endanger or detract from the archaeological characteristics of the Archaeological Area may be introduced to the area without approval of the State Archaeologist.

Authority: T.C.A. § 4-317. **Administrative History.** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.20 WATER LEVEL CONTROL. Natural water levels shall not be altered. Water levels which have been altered by man may be changed if justified in the Master Plan as essential for the restoration, safety, management, and maintenance of the area.

Authority: T.C.A. § 4-317. **Administrative History.** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.21 EROSION CONTROL. Erosion and soil deposition due to past or present disturbance by man or natural conditions within or outside of the area may be controlled in accordance with the provisions of the Master Plan.

Authority: T.C.A. § 4-317. **Administrative History.** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.22 USE.

- (1) Use of areas shall be allowed only to such extent and in such manner as will not impair archaeological conditions nor endanger archaeological features. The Master Plan shall define the use of each portion of the Archaeological Area and specify the controls and restrictions to be placed on access and use. The manager will monitor conditions under which use will result in deterioration of the area and shall have the authority to further restrict access and use as necessary to protect the area.
- (2) Visitor activities that are not compatible with the preservation of the natural and archaeological character of each archaeological area shall not be permitted.

Authority: T.C.A. §§ 11-1505, 11-1506, and 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.23 ARCHAEOLOGICAL ZONE.

- (1) Each Archaeological Area will be divided into Archaeological Zones according to the occurrence, distributions and uniqueness of archaeological and natural features within the respective areas. The nature and intensity of visitor utilization and land use will be specified for each zone.
- (2) In establishing zones, Consideration will be given to archaeological features and characteristics of the resource and to the objectives of the Archaeological Area as stated in the Master Plan and Tennessee Antiquity Act.

(Rule 0400—2—9—.23, continued)

(3) Classification of Archaeological Zones.

<u>ZONE</u>	<u>DESCRIPTION AND PRIMARY USE</u>
R	Undisturbed area containing artifact concentrations, mounds, and other archaeological features. Primary use is research.
1	Undisturbed area containing archaeological materials and features. Visitor interpretation services are emphasized.
2	Modified zone containing exhibited archaeological features such as mounds, reconstructed aboriginal features, etc. Visitor observation, interpretation and research emphasized.
3	Undisturbed open areas. No archaeological features or artifact concentrations. Areas to function as open space buffers.
4	No archaeological features or artifact concentrations. Modified natural environment dominant. Facilities and land use permitted that support intent and purpose of an Archaeological Area.

Authority: T.C.A. §§ 4-317, 11-303. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.24 ACCESS CONTROL. Ingress and egress shall be allowed only at such locations and under such conditions as may be specified in the Master Plan.

Authority: T.C.A. §§ 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.25 ORIENTATION AND GUIDANCE OF VISITORS. There shall be an interpretive program within each Archaeological Area for the orientation, education, and guidance of visitors. Exhibits, programs, and printed materials as well as guide service, interpretive programs and labeled trails and exterior exhibits will be provided within the area. The overall interpretive program shall conform to criteria in the Master Plan and to such general or special rules as the Division of Archaeology may establish.

Authority: T.C.A. §§ 11-1501, 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.26 SPECIAL USE OF AREAS. An individual, university or other professionally qualified institution or corporation wishing to engage in research activities in an Archaeological Area not otherwise permitted by these rules shall secure a permit approved and issued by the Division of Archaeology. This permit will be valid only on land that is owned or otherwise controlled by the State.

- (1) Archaeological Permits.
 - (a) Archaeological permits will be required on all excavations and collecting 'Within archaeological zones and other areas that may be designated in the Master Plan. Written application must be completed by the applicant and approved by the State Archaeologist in order to obtain a permit.
- (2) There shall be no collecting or excavation of artifacts from Archaeological Areas except as permitted in a valid Research Project operating under permits as described in Section 11 "a" above.

(Rule 0400—2—9—.26, continued)

- (a) The Archaeological permit application shall provide adequate information about the applicant and his educational activities. There will be included the name, address, position, professional qualifications, and general field specialty of the applicant and a description of the archaeological activities, including the objective, methods, and procedures to be followed, records to be kept, duration of the project, areas to be excavated or collected and a detailed written report in publishable form, prepared, of the results of the study. All field records, photographs, and artifacts must be returned to the Division of Archaeology.
- (b) A permit will be valid for a specified time, but may be renewable.
- (c) A permit may be modified, suspended, or revoked by the Division of Archaeology at any time.
- (d) A person (Principal Investigator) holding a permit will report to the Director of the Division of Archaeology before commencing and upon completing permitted activities.

Authority: T.C.A. §§ 11-1505, 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.27 MANAGEMENT RESEARCH. There shall be continuing studies of the general problems of managing Archaeological Areas. Appropriate action will be taken by the manager to alleviate problems determined by these studies. The overall goal of preservation of the Archaeological Area will be the main influence of the type and scope of any action taken.

Authority: T.C.A. § 4-317. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.28 MASTER PLAN.

- (1) Responsibility for preparation and revision of the Master Plan for each Archaeological Area shall rest with the Director of the Division of Archaeology with the approval of the Commissioner of Conservation. Representatives of administering agencies, private organizations and other interested groups or individuals may participate in the formulation and revision of Master Plans. Requests for such participation must be submitted in writing to the Director of the Division of Archaeology.
- (2) The Master Plan for each Archaeological Area and revisions thereto shall take effect upon approval by the Commissioner of the Department of Conservation. A deviation from these rules shall take effect only as provided in Rule 04-00—2—8—.05. An up-to-date copy of each Master Plan shall be held by the Director of the Division of Archaeology, the Department of Conservation, and the operational agency. These copies shall be available for public inspection during regular business hours as provided by law.

Authority: T.C.A. §§ 4-317, 11-303. **Administrative History:** Original Rule filed April 10, 1979, effective July 30, 1979.

0400—2—9—.29 RECORD. Records shall be prepared for each Archaeological Resource Area. One copy shall be retained by the managing agency and one copy by the Division of Archaeology. Records shall include annual reports of the manager and all other pertinent documentary material, studies, reports, obsolete portions of the Master Plan, research and research permits, and descriptions of significant events.

(Rule 0400—2—9—.29, continued)

The form and content of the record shall be as the Department may establish. Responsibility for assembling the record shall be designated in the Master Plan.

Authority: *T.C.A. § 4-317. Administrative History: Original Rule filed April 10, 1979, effective July 30, 1979.*