

Protection of Ancient Burials in Iowa

A Guide for Landowners



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We recently celebrated Iowa's sesquicentennial, celebrating 1846, the year of statehood. However, for nearly 13,000 years humans have lived in what is now the state of Iowa. Iowa's agricultural heritage has its roots in the prehistoric past—people were growing corn in Iowa hundreds of years before Euroamerican settlement. The diverse American Indian cultures inhabiting the region, prehistorically and historically, and the early Euroamerican pioneers made many contributions to our modern world.

Not only have people lived here for thousands of years, but they have been buried here as well. The earliest burials included isolated graves and large ossuaries, or mass graves. Approximately 2500 years ago, the Woodland peoples began to build conical-shaped mounds to inter their dead. This practice continued for almost 1500 years. Later prehistoric and early historic American Indian burials included isolated graves and cemeteries. With Euroamerican settlement, additional graves and cemeteries dotted the landscape.

Unfortunately many prehistoric and historic burials have been destroyed through construction, farming, erosion, and vandalism. Through stewardship efforts by landowners like yourself, the remaining remnants of these past inhabitants of Iowa can be conserved.

Legal Background

All burial sites in Iowa are protected by law (Iowa Code Chapter 716.5). Burials less than 150 years in age are covered by Iowa Code Chapter 566. Those over 150 years in age, including ancient burial mounds and non-mound burials, fall under the jurisdiction of the Office of the State Archaeologist (Iowa Code Chapter 263B, Iowa Administrative Code 685-11). Burial site maintenance and management should be designed to prevent damage to human remains and associated materials, and to preserve sites for the benefit of descendants and the public.

The right for burials to remain undisturbed is based in old English law. A recent court case in Iowa affirmed this right and determined that implementation of state laws that protect burial sites does not constitute a taking [519 N.W. 2nd 367 (Iowa 1994)].

The following management suggestions for burial sites over 150 years in age should result in minimal inconvenience to a landowner while still protecting burials.

Farm and Rural Settings

If burial sites are located in an area currently used as a pasture, a change in land use may not be needed. Use of an area as a pasture causes minimal damage to burial sites although erosion can be a potential threat. To reduce erosion and damage to burial sites, do not allow grazing during wet seasons. Also locate gates so livestock does not have to directly cross the burials.

If the area of the burial sites has never been cultivated, it should be left uncultivated. If it is currently being cultivated, erosion and additional damage to the burials can be minimized by leaving the surface of the burials in permanent grassy vegetation or by using no-till practices in the burial area.

Burial sites in timbered areas require minimal maintenance. Special consideration, however, needs to be given to the potential impacts from logging and tree falls. If an area is to be logged, visibly mark the burial area prior to the start of any logging activity to ensure that heavy equipment does not drive over the burial sites and to prevent fallen trees from being pulled over the burial surface.

Dead or dying trees on burial sites should be cut to prevent potential damage from uprooting during wind or ice storms. To do this, trees should be cut just above the ground surface and the stump chipped out by hand. The resulting cavity should then be filled with clean dirt (taken from a non-burial site location). Do not bulldoze, pull, or attempt to grub out the roots as this could cause extensive and unnecessary damage to the burials. As the root system naturally decomposes, additional dirt should be added to fill in any depression. Grassy vegetation should be encouraged. Heavy brush should be cleared from burial sites on a yearly basis. Cut off at or slightly above ground level, do not pull.

At no time should vehicles of any sort be driven onto or across burial sites. Fence posts, sign posts, utility poles, utility lines, etc., should not be placed in or on burial sites. Any tombstones that are present should be left intact.

Development Considerations

During construction, a buffer zone around the burial sites will help assure protection. In some cases, a 100-foot buffer zone has been recommended, and in other cases as little as a 25-foot buffer or less is suitable. The three concerns to be addressed in determining the size of buffer are:

- *preventing disturbance during construction;*
- *protecting the site from erosion that could result from grading or other earthmoving activities related to construction;*
- *protecting the site from normal landscaping and everyday activities once construction is completed.*

These concerns can be addressed by physically fencing off the mounds during construction to protect them from disturbance. The buffer and the fencing during construction provide protection from inadvertent damage by heavy machinery and help ensure that the site's immediate surroundings are maintained in a relatively natural state and subjected to minimal erosion and other post-construction damage.

Following construction, any graded area should be stabilized to prevent erosion or undermining of the adjacent site. Normal landscaping and everyday activities should not disturb the burial site's ground surface and not raise the possible perception of desecration. For example, using a burial site for tree or shrub plantings or as a garden plot would disturb the ground surface. Placement of a picnic table or playground equipment on top of a mound could be considered desecration, or at the very least, disrespectful. A mowed lawn, perennial flower garden (shallow plantings only), or prairie planting would all be low impact uses compatible with burial site conservation.

An Example of a Plan for Revegetating Burial Sites from the Fayette County Conservation Board

One approach to conserving mounds or other unmarked burial sites is to seed the area to prairie vegetation for long-term management purposes. A proposal for seeding mounds meeting the approval of the Office of the State Archaeologist and the OSA Indian Advisory Council includes the following:

- *Spray the burial site and surrounding area in the spring with Roundup® to eliminate problem weeds and encroaching vegetation.*
- *Disk surrounding area as needed to provide acceptable seedbed. No disking should be done on or immediately adjacent to the burial sites.*
- *Seed site with Truax® drill. Use conventional method on disturbed area, and use no-till on the burial site. Depth of coulters should be limited to 1" penetration. Seed probably should be double seeded, at right angles, to insure good stand and proper amount of seed.*
- *Seeds used should be primarily local ecotypes, many of which could be harvested from similar prairie sites in the general vicinity of the burial. If needed, extra seed could be purchased from nearby sources. Every effort should be made to match historical vegetation on the site.*
- *As part of the ongoing management, periodic controlled burning of the site should be accomplished. Assistance from the local County Conservation Board staff or the County Roadside Vegetation Manager should be sought.*

Fayette County's regular prairie seeding management consists of a first year mowing to control weeds and limit cover crop growth. The second year they let everything grow, unless they have a specific noxious weed problem, which they would handle on a spot treatment basis. The third spring they burn it. That fall, they evaluate density and species presence.

Additional Publications of Interest

The Archeological Assistance Program of the National Park Service publishes a series of free and useful *Technical Briefs*. To request copies write to: *U.S. Department of the Interior, National Park Service, Archeological Assistance Division, PO Box 37127, Washington, DC 20013-7127.*

Another free publication by the National Park Service is *CRM*, cultural resource management information for parks, federal agencies, Indian tribes, states, local governments, and the private sector. Write to the *U.S. Department of the Interior, National Park Service, Cultural Resources, PO Box 37127, Washington, DC 20013-7127.*

From the above address, you can also request a copy of *Protecting Archeological Sites on Private Lands* (1993). This 133-page free volume provides information on laws concerning

cultural resources and various strategies for protecting cultural resources on private lands, and has several appendices supplying additional useful resource references.

Long Term Preservation Options

Conservation easements and deed restrictions are among the options for long term preservation. The Iowa Natural Heritage Foundation has published a booklet discussing these and other options in detail. For a copy of *The Landowner's Options*, contact: *Iowa Natural Heritage Foundation, 505 5th Avenue, Suite 444, Des Moines, IA 50309-2321.*

If you sell your property, please alert the new owner of the presence of any burial sites and his or her legal responsibilities.

For More Information

Working together, Iowans can promote economic development as well as landowner stewardship to protect our heritage. For more information, contact:

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