

zoning, subdivision, development and permitting review. Often these are incorporated into a community's comprehensive land-use plan.

Such regulations should hold applicants accountable to comply with the stipulations of the regulation but also offer them a process of review and appeal. In addition to failing to issue a permit or approving submittals for a project, cities and counties might consider incorporating a fine structure into the regulation to encourage compliance. Any plan should have a broad-based framework to ensure effective and long-term implementation and should not rely on specific individuals for success.

A variety of community mechanisms enacted throughout the country, are reviewed in some detail in the National Park Service *Strategies for Protecting Archaeological Sites on Private Land* and readers are referred to that document for many examples and case studies. Contact the OSA for selected examples from Iowa.

National, State, Local Registers of Historic Places

Placing sites on the NRHP is one means for private individuals to bring recognition to the historical importance of a property, and may mean the property is eligible for other forms of protection and financial incentives to the landowner. In addition to the NRHP, local and state registers can also be compiled. Recording archeological sites and creating lists of the most important and most endangered sites in a county offers a first step towards identifying those most worthy of protection.

SOME USEFUL WEB LINKS

CONTACT INFORMATION

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Conservation easements and other preservation options: Iowa Natural Heritage Foundation <http://www.inhf.org/forlandowners.htm> and the National Park Service publication, *Strategies for Protecting Archeological Sites on Private Lands*,

<http://www.cr.nps.gov/hps/pad/strategies/index.htm>

Forest Legacy Program: <http://www.fs.fed.us/spf/coop/programs/loa/flp.shtml>

Farmland Protection Program: <http://www.nrcs.usda.gov/programs/farmland/2002/pdf/ConsProv.pdf> or contact your local NRCS office or the Iowa Natural Heritage Foundation

Archaeological Conservancy:
<http://www.americanarchaeology.com/aaabout.html>

Iowa's burial laws and the OSA Burials Program: <http://www.uiowa.edu/~osa/burials/index.html>

Pioneer cemeteries and the State Association for the Preservation of Iowa Cemeteries: <http://www.rootsweb.com/~iasapc/>

Iowa's State Historic Preservation Office: <http://www.state.ia.us/government/dca/shsi/preservation/index.html>

National Register Historic Places: <http://www.cr.nps.gov/nr/>

Historic Preservation Easements: a down-loadable copy of *Historic Preservation Easements: A Directory of Historic Preservation Easement Holding Organizations* is available

at: <http://www.nps.gov/hps/tps/tax/easement.htm> or contact the State Historic Preservation Office

The National Park Service has a number of excellent publications on stewardship and preservation that can be downloaded from their web page: <http://www.cr.nps.gov/publications.htm>

Society for American Archaeology's Education for the Public web page: <http://www.saa.org/public/home/home.html>

The statewide comprehensive historic preservation plan for Iowa may be viewed at: <http://www2.cr.nps.gov/pad/stateplans/iowa.htm>

Native American Graves Protection and Repatriation Act: <http://www.cr.nps.gov/nagpra/INDEX.HTM>

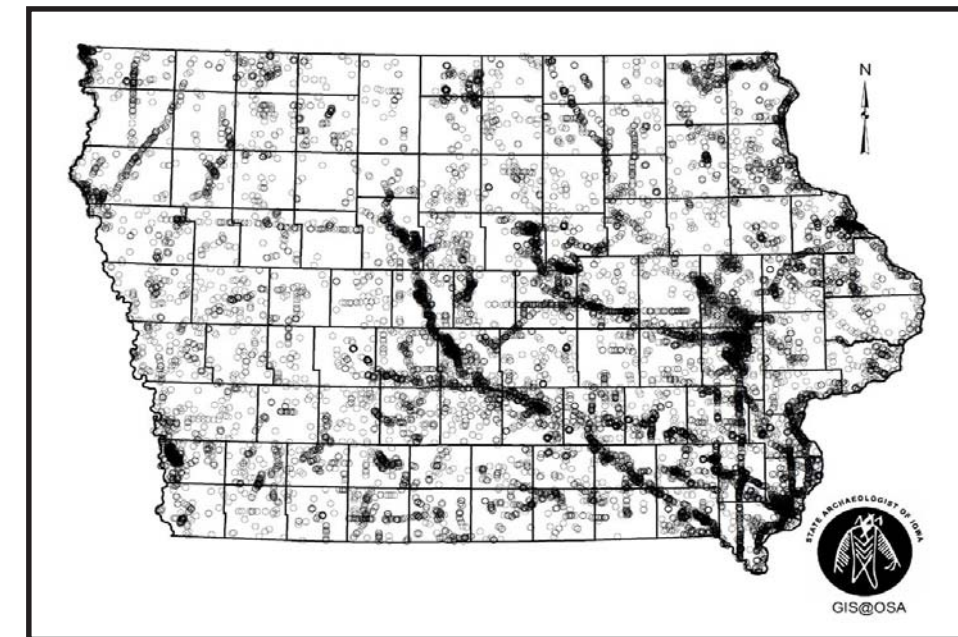
National Historic Preservation Act:
http://www.cr.nps.gov/local-law/FHPL_HistPrsrt.pdf



IOWA ARCHAEOLOGY AND YOU

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Office of the State Archaeologist, University of Iowa



Recorded archaeological sites in Iowa.

Protecting Iowa's Archaeological Resources for the Future

Many Iowa landowners are good stewards of archaeological sites on their property. The best protection for an archaeological site, in fact, is ownership by someone who values the site and makes every effort to maintain and protect it. Landowners are encouraged to voluntarily care for and protect archaeological sites whenever possible and to consider compatible use options for property containing important sites. The following offer long-term preservation options.

Communities, local governments, agencies, and private citizens throughout Iowa and the U.S. have developed innovative strategies for long-term "protective custody" of archaeological properties. These range from the purely voluntary to legislative and regulatory, and involve private and public individuals and organizations, or collaborative partnerships between the two.

At a higher level of community or county government, they may involve consideration for archaeological sites as part of historic preservation-, sensitive areas-, or environmental-ordinances; regulations pertaining to planning, zoning, and permitting review; or establishment of state preserves. Some

states have established laws to protect archaeological sites on both public and private lands. Some legal mechanisms include enforceable measures (with consequences) that actually protect important archaeological properties, such as Iowa's burial protection laws.

In Iowa, existing laws may be supplemented by outright purchase by nonprofit organizations, conservation easements, incorporation of cultural resources into planning and zoning frameworks, restrictive covenants, public acquisition, state preserves, and stewardship and educational programs.

At the broadest level of protection for archaeological resources are federal laws, such as the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act.

It is also possible in some cases for landowners and land managers to implement protective efforts tailored to individual situations. The Office of the State Archaeologist (OSA) and the State Historic Preservation Office (SHPO) are happy to assist.

CONSERVATION AND PROTECTION OPTIONS

Conservation Easements

A conservation easement is a flexible tool for permanent resource protection on private land. It balances both growth and preservation.

- The land remains in private ownership.
- The size, shape, and content of land-use restrictions can be tailored as appropriate to include natural or cultural features for which the landowner wishes long-term protection.
- A landowner donates (with potential tax breaks) or sells an easement to a second-party “holder.” Easement holders can be a private organization or a government agency that is interested in preserving significant natural and cultural characteristics of the land.
- Conservation easements are attached to the title of the land, and they legally bind all present and future owners of the land.
- In accepting a conservation easement, the easement holder agrees to monitor and enforce the easement restrictions in perpetuity.
- Agencies and organizations that are easement holders suggest setting up some kind of stewardship or endowment fund to cover these costs through the years.

In 2002, the Iowa legislature modified the section of the Code of Iowa dealing with conservation easements (Chapter 457A), adding the State Historical Division and the OSA to the list of authorized easement holders; adding “agriculture,” “open space,” and “cultural resources” to the list of features or conditions that may be preserved by a conservation easement; mandating perpetual enforceability; and clarifying “natural resources” to include “archaeological and historical resources.”



Capoli Bluff bird effigy mounds

The Iowa Natural Heritage Foundation (INHF) has a long history of working with Iowa landowners in setting up conservation easements and other types of long-term preservation. Important archaeological sites included in such easements are Four Mounds in Dubuque, several of the Adams mound groups in Clayton County, Capoli Bluff mound groups and Paint Rock in Allamakee County, and properties in the loess hills of western Iowa.

Protection of cultural resources via conservation easements is also provided by federal programs such as the Forest Legacy Program or Farmland Protection Program which may offer funding.

Historic Preservation Easement

A historic preservation easement is another voluntary legal agreement between a property owner and a qualified organization to protect a significant archaeological site, historic property, or landscape by restricting future development. To qualify, archaeological sites must meet National Register of Historic Places (NRHP) criteria for evaluation, be part of registered historic districts, or be adjacent to property individually listed on the NRHP. A historic structure must be listed on the NRHP or located within a registered historic district. Restrictions may range from prohibiting any construction on a site to retaining features of a building’s historic façade. The mechanisms of a historic preservation easement parallel those of a conservation easement.

Reserved Life Estate, Conditional Transfer, Bargain Sale

A reserved life estate in Iowa allows individuals to donate their property now while retaining the right to live there during their or another designated person’s lifetime. Although the immediate tax benefits may be less than an outright donation, this can be a good option when the receiving organization is not in a position to accept immediate responsibilities of ownership. A conditional transfer of property involves the donation or sale of property for conservation purposes. If the land is not used for the purposes specified, the land can revert to the original owner and heirs or to another conservation organization. Conditions are effective for 21 years unless re-recorded on the deed. Property can be sold for what is known as a “Bargain Sale”—selling the land to a governmental agency or publicly-supported charity for a price less than fair market value. The landowner receives some money for the land and can also claim an income tax deduction for the difference in fair market value and the actual sale price.

Covenants, Deed Restrictions, Memoranda of Agreement

Short-term protection can be placed on a property when land is sold or transferred through a deed restriction. This is accomplished by

placing restrictive language in a deed specifying how the property can be used. The disadvantage of this type of protection is that a deed restriction remains in effect for only 21 years unless re-recorded. Unlike a conservation easement, there is no third party to monitor and enforce a deed restriction.

The OSA has worked with developers when burial mounds or other burial sites were located within their project area to develop memoranda of agreements (MOA) and language to



Blood Run National Historic Landmark

include in deed restrictions and restrictive covenants. The MOAs can include how the development plat design will avoid impact to the site, restrictive covenants specifying permanent limitations on future use of the property surrounding the site, and requirements to inform buyers of the presence of a burial site on the property and the owner’s responsibilities to preserve it.

Acquisition

Private individuals or local nonprofit organizations, city, county, and state governments, or collaborative partnerships among these, can purchase and manage archaeological properties. Ownership may come from purchase, transfer, or donation with the possibility of certain tax benefits or other financial incentives for the seller or donor. The State Code of Iowa (Chapter 303.2) states that agencies which own, manage, or administer a historic site must enter into an agreement with the Department of Cultural Affairs under Chapter 28E to insure the proper management, maintenance, and development of the site.

On occasion, the Iowa Department of Transportation has transferred property with cultural resources to county

jurisdiction for management. The Iowa Department of Natural Resources (DNR) and county conservation boards across the state also own properties containing archaeological sites. Effigy Mounds National Monument is the most prominent example of a federally-owned archaeological property in Iowa. The INHF has played critical roles in the acquisition of significant archaeological properties such as Mines of Spain, a portion of the Blood Run National Historic Landmark site, and additions to Effigy Mounds National Monument.

Archaeological Conservancy

The Archaeological Conservancy is a national, nonprofit organization which purchases sites. The Conservancy is funded by membership dues, private contributions, corporate sponsorships, and private foundations. The Archaeological Conservancy manages sites as permanent archaeological preserves. Sites are stabilized and fenced, if needed, and a long-term management plan is prepared for each preserve. This organization is eager to add Iowa to the states which it assists.

Preserve Dedication

The Iowa State Preserves System, within the DNR, affords both cultural and natural resources the state’s highest protection. Archaeological preserves are one of five category types for preserve dedication. Of the 90 current state preserves, there are 16 dedicated for their archaeological significance.

Dedication as an Iowa state preserve is a specialized type of conservation easement. In addition to restricting what a present or future landowner can do, it limits what other individuals, agencies, and organizations can do. The first priority of the State Preserve System is to provide permanent protection to the significant cultural and natural features of that preserve. This may mean controlling or prohibiting any type of activity or use not compatible with permanent protection.

Preserves are acquired by a variety of funding sources as well as by donation. Toolesboro Mounds and Malchow Mounds are examples of publicly-owned State Preserves. Properties dedicated as state preserves also can remain in private ownership (for example, Hartley Fort Preserve, an archaeological property in northeast Iowa). An owner agrees to abide by the management plan approved by the State Preserves Advisory Board.

Community Regulations that Incorporate Archaeological Resources

Nationwide and in a few places in Iowa, communities have enacted measures that encourage consideration of potential impacts to archaeological resources as part of planning,