

# Protection of Ancient Burials in Iowa

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## Planning and Development Considerations



Burials Program  
Office of the State Archaeologist  
The University of Iowa

*OSA Indian Advisory Council*

Donald Wanatee (Meskwaki)

Royal Nahno-Kerchee (Comanche, Meskwaki)

Howard Crow Eagle (Navajo, Sioux)

John F. Doershuk, State Archaeologist

Shirley Schermer, Burials Program Director

Robin Lillie, Osteologist

### **Protecting Burial Sites**

Iowa's landscape is marked not only by scenic beauty but by traces of thousands of years of human habitation. Much of Iowa's Indian heritage is in the ground itself—in camps and village sites, in mounds and cemeteries.

For decades, the remains of Iowa's original inhabitants were removed from their resting places. The land was developed, relic hunters and curious amateurs explored mounds, and scientists studied burial sites and skeletal remains. Indians were never asked whether they endorsed excavation of graves or displays of human remains.

By the 1970s Indian people were publicizing the extent of burial site excavation and destruction in Iowa. A double standard became especially apparent: Indian burial sites were being dug and destroyed but non-Indian burials were protected.

In 1976 Iowa became a national leader by enacting a law to protect ancient burial sites and to reinter ancient human remains. No longer were recent, marked cemeteries the only burial sites clearly protected by law. Statutory protection was extended to all human remains over 150 years in age, encompassing Iowa's original inhabitants.

The law and its administrative rules prohibit unauthorized disinterment and establish a process for examining and reburying ancient skeletal remains. Reburial is conducted at protected, state-owned sites. The law involves coordination between the Office of the State Archaeologist (OSA) and the Indian community through the OSA Indian Advisory Council.

Iowa's protection of burial sites and reburial of ancient human remains shows that preservation can be compatible with progress.

### **Legal Considerations**

Intentional disturbance of burials violates Iowa state law and may lead to prosecution as an aggravated misdemeanor (Code of Iowa 716.5). Failure to report the finding of human remains may lead to prosecution as a serious misdemeanor (Code of Iowa 523I.316.6). As specified in the law (Code of Iowa 263B), the Office of the State Archaeologist is the proper authority to contact concerning information on ancient burials, defined as over 150 years old.

Over 1,500 Indian mounds and other unmarked ancient burial sites are recorded in the statewide archaeological site file maintained by the OSA. The OSA receives information on many additional mounds and other burial sites each year. Anyone with knowledge of a mound or other possible burial site should contact the OSA.

#### **State Statutes Protecting Ancient Burials**

263B.7	Ancient remains
263B.8	Cemetery for ancient remains
263B.9	Authority to deny permission to disinter
523I.316.6	Serious misdemeanor for failure to report discovery of human remains
716.5	Criminal mischief in the third degree for intentional disturbance of burials

#### **Iowa Administrative Code**

685-11 Ancient human skeletal remains

### **Planning Considerations**

The possible presence of unmarked burials should be considered in development projects. If the location of burials is known in the early stages of development planning, it would take little effort or cost to modify plans and leave the burials undisturbed.

Several counties have enacted ordinances or resolutions that take into consideration the potential impacts to natural, historical, and cultural resources within potentially sensitive areas as part of the zoning decision or permitting process.

Whether it is through formal reviews such as these or by contacting the OSA directly, developers and planning agencies should consider project effects on burial sites. The OSA regularly works with developers and agencies to help identify burial sites within potential development areas. If a burial site is present, the OSA and the OSA Indian Advisory Council may suggest modifications to development plans to protect the site.

Prior to construction—preferably in the early stages of planning—developers, zoning and planning boards, other agencies, and landowners should contact the OSA. Provide maps and descriptions of development area boundaries, or simply call the OSA with the legal description. The OSA will check its records and will provide information on any known burials within the project area. This relatively quick step can save time and money in the long run.

An absence of recorded sites does not necessarily mean no burials are present. It could just mean that no one has ever looked for mounds or burial sites in that particular location. The OSA can examine a site's

environmental and topographic setting to assess the potential for unrecorded burials. Blufftops, ridge spurs, and high terraces overlooking rivers and streams are likely settings for burial sites. If an area appears to have a high potential for containing burials, an OSA Burials Program staff archaeologist can make a site visit, upon request, to determine if any obvious burial features, such as mounds, are present.

Unmarked historic-era cemeteries can be present in a variety of landforms and locations. Archival records and interviews with local informants can often provide valuable information on a cemetery's presence.

### **Archaeological Surveys**

If a more intensive archaeological survey is desired, developers may contract for such services with consultants on the archaeological contractors list available from the Community Programs Bureau, State Historical Society of Iowa, Des Moines (515-281-6412). The Historical Society also can provide state and federal guidelines for archaeological surveys. All federally assisted or licensed projects must be reviewed by the State Historic Preservation Office to ensure compliance with federal historic preservation laws.

### **Accidental Discoveries**

Sometimes burials are accidentally encountered even after a records check or survey. If human remains are found, stop any construction in the area and secure the site. If the remains appear to be recent, contact local law enforcement. If the remains appear to be ancient, contact the OSA. Construction workers should be informed of Iowa's burial laws, be aware of the need to observe what may be encountered, and know the procedures to follow if a possible burial is found.

### **Contact**

Working together, Iowans can promote economic development and protect our heritage. For more information, contact:

Shirley J. Schermer  
Director, Burials Program  
Office of the State Archaeologist  
700 Clinton Street Building  
University of Iowa  
Iowa City, IA 52242  
phone: (319) 384-0740  
fax: (319) 384-0768  
e-mail: [shirley-schermer@uiowa.edu](mailto:shirley-schermer@uiowa.edu)