

# *Indiana Cemetery Questions and Answers*

*Compiled by the Indiana Department of Natural Resources,  
Division of Historic Preservation and Archaeology*

The following are just some of the most commonly asked questions and answers which the Division of Historic Preservation and Archaeology (DHPA) receives regarding cemeteries in Indiana and laws which protect them.

**1) Are cemeteries protected in Indiana?** Yes! There are several laws which provide different measures of protection for these important parts of our heritage.

The Indiana Historic Preservation and Archaeology Law (IHPAA) not only provides protection for archaeological sites which date before Dec. 11, 1816, but also human burial sites which date on or before December 31, 1939. Recent amendments to IHPAA: (1) establish that development plans must be reviewed by DNR when someone plans to disturb the ground within one hundred feet of a cemetery; (2) detail the steps that must be followed when recording interests in property containing a burial ground or cemetery; and (3) authorize the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology to create a registry of Indiana's cemeteries and burial grounds.

Other sections of the IHPAA and other laws address the removal of grave memorials and the buying and selling of items removed from a cemetery, and recording interests in real estate containing a burial ground or cemetery.

The Indiana General Cemetery Act also provides protection for cemeteries.

Under the laws governing surface coal mining, cemeteries are considered "lands unsuitable,, for mining and must be avoided by 100 feet, or they may be legally relocated.

The Indiana Criminal Code addresses intentional damage to a cemetery, cemetery grounds, markers, etc.

**2) Is it DHPA's responsibility to maintain (i.e. mow, fence) cemeteries?** No. The Division of Historic Preservation and Archaeology is not responsible for maintaining cemeteries in Indiana. Maintenance of cemeteries is sometimes conducted by county cemetery commissions, if one exists in the county in question, or by township trustees in other cases, or by other entities or persons.

**3) If I want to clean up a cemetery I'm concerned about, may I go ahead and do so?** No. Members of the public should **not** attempt to clean up or maintain cemeteries until they have clearly determined who the legal landowner is, and obtained that person's permission to go onto the land. Unsolicited voluntary clean-up efforts might be viewed by the landowner as trespassing. In addition, there are proper ways, as well as harmful ways, to clean and repair stones, and anyone attempting to conduct such activities should be acquainted with the proper techniques.

**4) Should all types of cemeteries be maintained or cleaned up?** Not necessarily! For example, as is stated in “Treading on Sacred Grounds,, (Deas-Moore 1995:3), “conservation of African-American cemeteries means ‘let it be.’ It is not unusual to find an African-American grave completely overgrown, especially when burials are no longer taking place. This does not necessarily signify neglect, but is done so that the dead will not be disturbed.,, Out of respect for different cultural beliefs, cleaning up an “abandoned,, cemetery may not always be the correct thing to do. Prior to any permitted clean up efforts, research should be conducted to try and determine the cultural affiliation of those buried there in an attempt to determine the proper way to proceed. Any scheme of maintenance, whether “culturally-sensitive,, or not, should have the consent of the property owner.

**5) Am I allowed to go to a cemetery and “probe” the ground to look for headstones which may have become covered over or to attempt to figure out where graves are located?** No. Do not conduct any ground disturbing activities without obtaining the proper permission to conduct these types of activities. Removal of artifacts, burial objects, grave markers, or human remains, without prior approval from the Department of Natural Resources, or in violation of a plan previously approved by the Department, may result in criminal charges being brought. In limited circumstances, such activities may be legal, as in the case of maintenance activities conducted by township trustees. If you have any doubts you should consult an attorney before proceeding.

**6) What happens if I accidentally discover burial objects or artifacts?** Under the IHPAA, if a person accidentally discovers a burial object or artifact while disturbing the ground for another purpose, the person shall immediately stop and must notify the Department of Natural Resources within two business days. Following notification, a number of results may occur: (1) the ground disturbing activity may continue with or without conditions, or in accordance with an approved, systematic plan for scientific recovery, analysis, and disposition of the material; (2) the situation may be resolved under other law; or (3) the area may be protected and avoided.

**7) What happens if human remains are accidentally discovered?** A person who disturbs buried human remains must notify the DNR within two business days. The remains will then be treated or reburied under the IHPAA or other law, or the area may be protected and avoided.

**8) I know of a situation where a farmer removed tombstones from a field in order to gain more agricultural land to use. Can he be penalized for that? Also, is it allowable for farm animals to go through cemeteries and knock stones over?** The law no longer allows an exemption for agricultural activities. If someone damages stones or the cemetery grounds by conducting animal husbandry or agricultural activities, they may be charged with a criminal violation. If buried human remains are discovered, the discovery must be reported to the DNR within two business days.

**9) Does the Division of Historic Preservation and Archaeology care about cemeteries?** Yes, the DHPA staff do care about cemeteries and their preservation in our state! Our archaeologists deal with cemetery-related issues (both prehistoric and historic) on an almost daily basis. Cemeteries are part of our cultural landscape in which more and more citizens are becoming interested, and the Division is committed to educating the public about cemetery issues. In addition, the Division is now assuming the important task of creating a cemetery and burial ground registry, which was mandated by recent additions to the IHPAA. A DHPA staff member is responsible for creating the registry, working with members of the public who have already compiled valuable cemetery information, and serving as a cemetery contact person for DHPA.

**10) What is the Division of Historic Preservation and Archaeology doing to promote the preservation of cemeteries?** The DHPA acts on every report of potential disturbance or vandalism to both prehistoric and historic cemeteries. Our staff receives reports and relays them to DNR conservation officers, and to the local coroner. The conservation officers will then investigate to determine whether further legal action is warranted. The DHPA staff often assists with site inspections as well. The DHPA promotes public education about cemetery preservation through, for example, hand outs such as this, presentations, and newsletter articles. Also, in order for our office to help protect cemeteries, we have to know where they are! We encourage citizens to share cemetery location information with us so that we may put that in our cemetery files. Sharing information and incorporating it into the cemetery database is a vital part of the success of the registry. If we know about a cemetery, it is easier to try and help protect it!

**11) What can I do to help?** Volunteer with the Cemetery Registry Project to help locate and survey all cemeteries and burial grounds in the state. “Adopt,, a cemetery—pick one (or more) in your area and keep an eye on it. Encourage the legal landowners of a cemetery, or those responsible for it, to do what is necessary to maintain a cemetery which is in their jurisdiction. Teach children that cemeteries are not frightening places or places to be vandalized. If children understand that burial areas are a connection to our past, they might be more willing to respect them. Hoosier children are our future preservationists!

For information regarding burial grounds in our state, the statewide cemetery registry project, or resources regarding cemeteries, please contact our office at:

**Division of Historic Preservation and Archaeology**  
**402 West Washington Street, Room W274**  
**Indianapolis, IN 46204**  
**317/232-1646; [www.ai.org/dnr](http://www.ai.org/dnr)**

#### **Reference Cited**

Deas-Moore, Vennie  
1995 “Treading on Sacred Grounds,,. In *Preservation of Historic Burial Grounds* by Lynette Strangstad, pp.3. *Preservation Information*, National Trust for Historic Preservation, Washington, D.C.