# Archaeology Guidelines

## Section: Cemeteries, Burial Mounds and Other Burial Places

**State Historic Preservation Office**

Ohio History Connection
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# Cemeteries, Burial Mounds, and Other Burial Places

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# Cemeteries, Burial Mounds, and Other Burial Places

This section is included in the Archaeology Guidelines because it is possible that archaeological investigations will encounter documentary and/or physical evidence for both marked and un-marked cemeteries, and/or individual places of burial in Ohio. These places should continue to be identified and added to Ohio's inventory of cultural resources.

It is important to document these cultural resources to assist governmental agencies, tribes, planners, developers, and landowners in making decisions when planned activities have the potential to destroy or disturb human remains or other places of human burial.

Like many other cultural resources, cemeteries, mounds, and burials often have both above-ground (history/architectural) and below-ground (archaeological) components. Cemeteries can also represent key contributing elements to historic/archaeological landscapes and historic districts. The laws and regulations pertaining to them are significantly different than those of other cultural resources. Therefore, the State Historic Preservation Office (SHPO) offers the following recommendations and guidance as outlined below.

## A.  Legal Considerations

There are many different laws pertaining to registered and unregistered cemeteries and, other place of burial that vary significantly depending upon whether they are located on federal, state, township, municipal, or private lands in Ohio. Below is a summary of links to some relevant federal, state and municipal laws.

1.  **Federal legislation.** Native American Graves Protection and Repatriation Act (NAGPRA) (Public Law 101-601; 25 U.S.C. 3001-3013) describes the rights of Native American lineal descendants and Indian tribes with respect to the treatment, repatriation, and disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony with which they can show a relationship of lineal descent or cultural affiliation. One provision of this statute provides protection for certain Native American burial places and control over the removal of ancestral remains, funerary objects, sacred objects, and items of cultural patrimony on Federal and tribal land. On Federal and tribal land, NAGPRA requires that Indian tribes be consulted whenever archaeological investigations encounter or are expected to encounter Native American human remains or cultural items or when such items are unexpectedly discovered. Excavation or removal of any such items

also must be done under procedures required by the <u>Archaeological Resources Protection Act</u> (Sec. 3 (c)(1)).

2. **State legislation.** Chapter 517 of the <u>Ohio Revised Code</u> (ORC) covers state requirements pertaining to the ownership and operation of a township-owned cemetery in Ohio. Chapter 759 covers cemeteries owned by municipal corporations and Chapter 1721 covers corporations-partnership owned cemeteries. Other important state statutes include ORC§517.23 (disinterment of body buried in cemetery), ORC§517.27 (transfer of cemeteries to board of township trustees), ORC§759.07 (conveyance of lands abandoned for cemetery purposes), ORC§1715.02 (sale of cemetery ground no longer usable), ORC§2909.05 (vandalism), ORC§2927.01 (abuse of a corpse) and ORC§2927.11 (desecration). Under ORC§149.53, the director of the Ohio History Connection (OHC) determines the disposition skeletal remains discovered on state land.

3. **State legislation relevant to American Indian burial places, mounds, and earthworks** includes ORC§2909.05 (vandalism) and ORC§2927.11 (desecration). ORC§2909.05 states in part that no person, without the privilege to do so, shall knowingly cause physical harm to a cemetery. Under this code vandalism is a felony. Section 2927.11 State legislation relevant to American Indian burial places, mounds, and earthworks includes ORC§2909.05 (vandalism) and ORC§2927.11 (desecration). ORC§2909.05 states in part that no person, without the privilege to do so, shall knowingly cause physical harm to a cemetery. Under this code vandalism is a felony. Section 2927.11 of the ORC makes the unprivileged desecration of Indian mound or earthwork, cemetery, or site of great historical or archaeological interest a misdemeanor of the second degree. In both regulations a cemetery is defined as any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains. "Privilege" is defined in ORC§2901.01 as "an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity."

4. **Municipal regulations.** Title 7 of the ORC Chapter 759 states that municipal corporations may provide public cemeteries and crematories for burial or incineration of the dead and regulate public and private cemeteries and crematories.

B. **Policy Statements with regards to American Indian Consultation and Treatment of Human Remains and Cultural Items.**

The Advisory Council of Historic Preservation's <u>Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects</u> and the OHC's <u>American Indian Policy</u> are the most utilized by the SHPO. These policies help guide SHPO's consultation concerning the treatment of human remains and associated burial objects.

## C. Evaluating Cemeteries, Burial Mounds and Other Burial Places under Section 106

Historic-era cemeteries are <u>not</u> ordinarily considered eligible for the National Register of Historic Places (NRHP) unless it can be shown they meet specific requirements in addition to NRHP Criteria A, B, C, and D.  These special requirements are outlined in the <u>Guidelines for Evaluating and Registering Cemeteries and Burial Places</u> published by the National Park Service.

1. **Evaluation under Criteria A, B or C.** To qualify for listing under Criteria A (association with events), Criteria B (association with people), or Criterion C (design), a historic-era cemetery or grave must also meet Criteria Considerations C or D, meaning that the cemetery or burial(s) needs to contain the grave(s) of a historical figure(s) of outstanding importance if there is no appropriate site or building directly associated with his or her productive life; or for a cemetery or burial which derives its primary importance from containing graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.

2. **Evaluation under Criteria D.** A cemetery, burial mound, and other burial place must actually yield or be likely to yield important information. This information may derive from studies of the construction, layout, history, and cultural patterns reflected in the cemetery, mound, or other burial place or may derive from scientific study of human remains. The importance of this information usually involves developing a research design with a series of questions that can be addressed by a scientific investigation of the human burial place, including human remains, the associated burial facility, and funerary objects. This research design should go beyond standard archaeological research and excavation, and should take into consideration material culture studies, social history, and past and present religious beliefs of the interred individual(s), with all planning and investigations done in conjunction with all applicable federal, state, and local laws and regulations. A qualified forensic or bioarchaeologist should take the lead role in the evaluation when the human remains are the principal data set of the important information.

In every instance, the SHPO recommends direct and frequent consultation with lineal descendants, culturally affiliated groups, and other consulting parties before any field investigations that involve physical impacts to cemeteries, burial mounds, or any other place of burial.  Regardless of whether or not a cemetery, burial mound, or other burial place is found eligible for listing in the NRHP, SHPO recommends preservation-in-place as the preferred treatment. The only exception is for cases where all parties, including lineal descendants and/or culturally affiliated groups or individuals, agree that removal/disinterment is the best option.

## D.  Phase I Investigations

Excavations or subsurface disturbances should never occur at any known cemetery, burial mound, or other place of burial at the Phase I identification level without first consulting the SHPO, lineal descendants and/or culturally affiliated groups, and other appropriate consulting parties.

At the Phase I identification level, all known or suspected cemeteries, burial mounds, and other burial places must be recorded on an Ohio Archaeological Inventory (OAI) (no above ground markers/structures exists) or Ohio Historic Inventory (OHI) (above ground markers/structures are present) including a map showing their location and extent in relation to the area of potential effect (APE). If the cemetery, burial mound, and other burial places cannot be accurately located, the available provenience information and its source must be stated in the Phase I identification report. Documentation for known or suspected cemeteries, burial mounds and other burial places includes, if applicable, its general layout and the number and orientation of any above ground structures and objects (especially those within and immediately adjacent to the APE), and when possible, the use range dates. The horizontal extent of interments in relation to the APE should be established by using multiple geophysical survey methods (typically magnetometer and ground penetrating radar). However, if this methodology is not feasible at the Phase I identification, boundaries can be established by archival sources; cadaver dogs; standing markers, structures, enclosures, and/or changes in landforms and vegetation. Once determined, the boundary should be recorded via sub-meter global positioning system (GPS) and depicted on project construction plans.

Preservation-in-place is the preferred treatment and an Avoidance Plan (see G: Preservation-in-Place/ Avoidance Plan) should be included in the Phase I identification report. If avoidance is not possible, consultation with the SHPO, lineal descendants and/or culturally affiliated groups, and other appropriate consulting parties is required to develop a Human Remains Treatment Plan (see I: Human Remains Treatment Plan).

## E. Researching Historic-era Cemeteries

### 1. Understanding Ohio Genealogical Society (OGS) Cemeteries on the SHPO Online Mapping System

The cemeteries recorded by the Ohio Genealogical Society in *Ohio Cemeteries: 1803-2003* was provided to the SHPO as an attribute file after the publication of their book. OGS assigned each cemetery a unique identification number, known as an OGSID. Each cemetery is located by verbal description of varying quality and detail. The majority of the information found in *Ohio Cemeteries: 1803-2003* appears as attribute data in the SHPO Online Mapping System (OMS).

SHPO attempted to map the cemeteries from the verbal location descriptions with the results depicted in the SHPO OMS as white or pink boxes with a blue cross in the middle. A white box represents a confident cemetery location while a pink box represents an unconfident cemetery location based on the quality and detail of the verbal description. Note that cemeteries are mapped only as points without polygons for their boundaries in the SHPO OMS.

Since the SHPO undertook this effort, online mapping capabilities and aerial photography are greatly improved. The mapped locations of both the confident and unconfident cemeteries are not always accurate and will be adjusted as better locational information becomes available. If you notice an incorrectly placed OGS Cemetery point, please notify the SHPO with the correct locational information. In addition, at the time of this publication, approximately 1,000 cemeteries discussed in *Ohio Cemeteries: 1803-2003* were not included in the SHPO OMS due to insufficient verbal location descriptions.

### 2. Resources for Cemeteries
Researching a cemetery can vary from county to county based on prior documentation. Below is a list of tools to help research a historic cemetery in Ohio.

a) <u>Find A Grave</u> and <u>Billion Graves</u> websites

b) Historical Plat Maps

c) Historical (15 Minute) and Modern (7.5 Minute) Topographic Maps

d) County/township records – many of these records were compiled by individuals and county chapters of the Ohio Genealogical Society. The OHC's Library/Archives has many in their self-serve stacks.

e) County Auditor's and Recorder's offices– property deeds, plats, and other recorders may show cemeteries; much of this information is accessible on-line. The Auditor's website may also indicate ownership of a cemetery.

f) Local historical societies and genealogical groups – The Ohio Genealogical Society's website keeps a list of the local, active chapters and their contact information.

g) WPA Veteran Grave Registration

(1) WPA Plot Maps – most are located at the County Recorder's Office, but some are available online. Please see the Exploring Almost Forgotten Gravesites in the Great State of Ohio blog post to find the location of your county of interest.

(2) WPA Veteran Grave Registry – can be accessed on Ancestry.com or Fold3.com.

(3) WPA Civilian Grave Registry – OHC's State Archives Series 1166. A database of this collection has been created to help with your research on this collection. Please contact the OHC Archives & Library or SHPO, for access to this database.

3. **Recording Cemeteries with the SHPO**

The SHPO requests that a cemetery be documented on an OHI form unless the cemetery was discovered solely through archaeological investigation (i.e., unmarked human remains and/or associated funerary objects were unearthed, leading to the identification of the cemetery or other burial site). If the latter, record it on an OAI form. If you are unsure which form to use, please consult the Inventory & Registration Department of the SHPO.

F. **Researching Ohio Pre-contact burial mounds, cemeteries, and other burial places**

1. **SHPO OMS.** Burial mounds, cemeteries, village sites, and earthworks were among the first sites to be recorded in the OAI. Unfortunately, not many of the site's locations were field verified so their exact

provenience may not be depicted properly on the SHPO OMS. Researchers should not rely solely on the SHPO OMS unless the OAI form has been updated with detailed information as to how the archaeological resource was field verified.

2. **Aerial Photography.** Modern and historic aerial photography is one of the readily accessible sources for locating burial mounds and earthworks, as well as documenting landscape change through the 20th and 21st centuries. Inclusion of historical and modern aerial photographs of the APE is expected in most Phase I identification reports.

3. **LiDAR.** Light Detection and Ranging (LiDAR) mapping data produces high-resolution, digital elevation models despite forest and vegetation obstructions. Studying the fine gradations in elevation provided by the aerial overviews may highlight burial mounds and other landscape modifications that may be too subtle to visually notice in the field.

4. **Archeological Atlas of Ohio compiled by William C. Mills 1914.** The spatial data depicted on these maps is less than ideal, but the atlas can indicate the relative location of archaeological resources within the county's township/section. The atlas depicts the general locations of mounds, enclosures, village sites, burial grounds, cemeteries, stone graves effigies, petroglyphs, flint quarries and caches within each county.

5. **Published and Unpublished Literature.** Mounds and earthwork sites were the featured subject of publications authored by many 19th and early 20th century archaeologists working in the state and are some of our best sources for detailed descriptions and illustrations of hundreds of American Indian earthen structures. Ephraim G. Squier and Edwin H. Davis along with Cyrus Thomas, Caleb Atwater, and Charles Whittlesey mapped and described many of the state's more impressive earthworks, village sites, and mounds. Additional sources of information can be found in county histories and in the annual reports (1895 to 1928) published by the Ohio Archaeological and Historical Society. Contemporary documentation of burial mounds, cemeteries and other burial places can sometimes be found in unpublished Section 106 compliance reports, published journal articles and books, websites, and social media pages.

## G. Preservation-In-Place/ Avoidance Plan

The SHPO typically recommends at minimum a 100-foot-wide buffer from construction activities circumventing the furthest known extent of the cemetery, burial mound, or other

place of burial to try and avoid the disturbance of unknown and unmarked burials. The buffer must be depicted on project construction plans and delineated by temporary fencing prior to and during construction. If a 100-foot buffer is not possible, geophysical investigations must be used to try and delineate the horizontal extent of the interments followed by consultation with the SHPO to determine the extent of the avoidance area and/or the development of a Human Remains Treatment Plan (see I: Human Remains Treatment Plan).

## H.  Impacting Cemeteries, Burial Mounds, and other Burial Places

When preservation-in-place is not feasible, the cemetery, burial mound, or other place of burial must be evaluated as to their eligibility for the NRHP as outlined in the Guidelines for Evaluating and Registering Cemeteries and Burial Places published by the National Park Service, in consultation with the SHPO and other appropriate consulting parties. Regardless of the eligibility determination, a Human Remains Treatment Plan (see below) should be developed in consultation with the SHPO, the lineal descendants and/or culturally affiliated groups or individuals, and other appropriate consulting parties.

## I.  Human Remains Treatment Plan

Development of this plan depends on the type and number of known/expected burials, burial facilities and associated funerary objects, as well as the significance and integrity of the cemetery or formal burial.  However, all plans must consider and if applicable include information regarding:

1. Who has owns and/or control and management of the property?

2. Current status and condition of the property.

3. The number of visible and legible grave markers for the death date range within or immediately adjacent to the impacted portion of the cemetery or other burial place.

4. Is the property affiliated with any known religious, cultural, institutional, or ethnic group?

5. Plan for the notification and consultation with lineal descendants, culturally affiliated groups, and/or any other interested parties. Include any consultation efforts to-date.

6. Identify the responsible party(ies) for disinterment and reinterment of all impacted human remains, burial facilities and/or funerary objects.

7.  How and under what controls will the remains be exhumed?

8.  Where and under what conditions will the remains be reinterred?

9.  What are the scheduling limits for disinterment and reinterment?

10. Will any of the exhumed human remains, burial facilities and/or funerary objects be analyzed and documented?

11. How will the remains be handled and processed?

12. What analyses will be performed and under what scheduling limits?

13. Will any human remains or funerary objects be curated in a facility that meets federal curation standards prior to or in lieu of reinterment?

14. Identify the location(s) for reinterment and/or curation.

15. Include all relevant correspondences to-date with the agency, SHPO, consulting parties, linear descendants, tribes, and property owners.

## J.  Inadvertent Discovery of Human Remains

If unanticipated human remains are encountered during any phase of compliance-related activities and/or construction activities, all ground disturbing activities within a 150-foot radius of the burial place must cease and the human remains, burial facility and associated funerary objects must be covered and secured. The discovery must be reported to the county medical examiner/coroner, local law enforcement, the agency/applicant, landowner, and the SHPO. If the county medical examiner/coroner determines the remains are not within their jurisdiction, the agency/applicant in consultation with the SHPO and other consulting parties must attempt to determine if the remains are American Indian. If determined to be American Indian the agency/applicant must consult with the federally recognized tribes, SHPO, and other consulting parties to determine the appropriate treatment plan. If the remains are not American Indian, the agency/applicant in consultation with SHPO and other consulting parties must determine the appropriate treatment plan. In all cases, the human remains, burial facility and associated funerary items must be treated with the utmost respect and should not be disturbed until a Human Remains Treatment Plan is established.

For a complete discussion of procedures see OHC's, American Indian Policy Supplement Procedures for the inadvertent discovery and disposition of American Indian ancestral human remains, funerary objects, sacred objects, and objects of cultural patrimony in the State of Ohio.