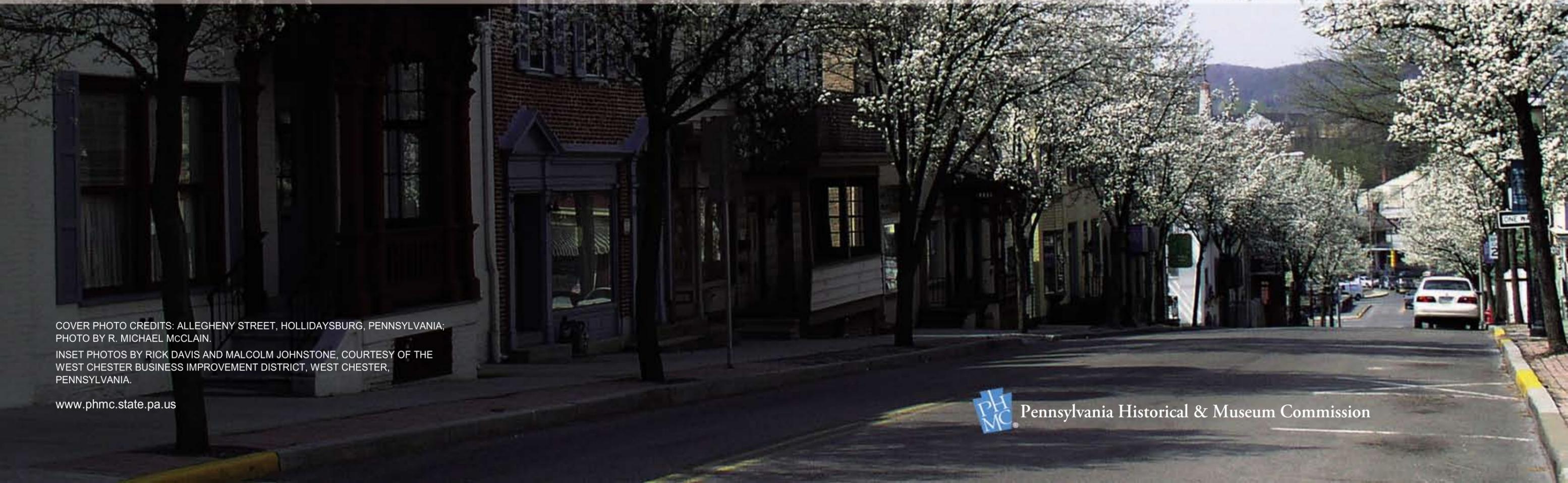




# *Historic District Designation in Pennsylvania*

Michel R. Lefèvre



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# Historic District Designation in Pennsylvania

Michel R. Lefèvre



Pennsylvania Historical & Museum Commission

Harrisburg, Pennsylvania

2007

Twenty-six years have elapsed since the Pennsylvania Historical and Museum Commission (PHMC) published the most recent edition of *Historic Districts in Pennsylvania*. Changes that have been introduced during this time, both in amendments to pertinent federal and state legislation, and in the accumulated experience of individuals engaged in the implementation of historic preservation, necessitated a substantial revision of this informative guide. During the past quarter century, Pennsylvania's communities have become more experienced in identifying and implementing historic preservation planning strategies, notably in such areas as historic district designation, which they have used successfully to protect historic resources, and as a tool for cultural and economic improvement. This publication offers

the reader wisdom gleaned from the years of success and failure experienced by local governments in the process of initiating and administering historic district ordinances. *Historic District Designation in Pennsylvania* is intended as a guide for local government officials, historic preservation organizations, and citizens who are considering the establishment of historic districts under municipal authority. A companion publication, *A Manual for Pennsylvania Historical Architectural Review Boards and Historical Commission*, also published by the Pennsylvania Historical and Museum Commission, is available by contacting the PHMC's Bureau for Historic Preservation.

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## Part 1 Introduction

When the second edition of *Historic Districts in Pennsylvania* was published twenty-six years ago, forty-five historic districts in Pennsylvania were protected by local ordinances authorized by the Historic District Act. Since then, an additional seventy-one districts have been created and protected by local historic district ordinances, and several more are pending certification. A substantial number of historic districts are also protected under other Pennsylvania legislative acts, which are also discussed in the text; these comprise twenty-three additional districts. Locally protected historic districts have increased in number, slowly but steadily, and continue as a highly effective means of accomplishing the preservation of the Commonwealth's historic resources.

Because many issues must be con-

sidered prior to the enactment of a historic district ordinance, the provision of such protection calls for a deliberative process. This publication attempts to explain what these deliberations entail and to provide guidance by which to make those deliberations.

The information in this booklet relies substantially on the earlier edition of *Historic Districts in Pennsylvania*, prepared by D. G. Schlosser. In addition, important contributions to the text come from the experience of local and state officials, members of Boards of Historical Architectural Review (informally known as HARBs) and historical commissions, colleagues, and local historic preservation organization volunteers who have been and are intimately involved with the establishment of historic districts. These are the individuals responsible for the protec-

tion of the Commonwealth's cultural resources at the community level. It is ultimately the property owner, however, who can insure that historic resources are preserved.

The creation, regulation, and administration of historic districts include specific activities with a beginning and an end, while some remain ongoing. Before launching into the details of establishing a historic district, drafting an ordinance, undertaking a survey, or campaigning for community support, you may want to benefit from the experience and expertise of others who have grappled with the many activities and processes required to establish historic district designation and protection.

The three forms of state enabling legislation that empower local governments to protect historic resources



Aerial view of the Lovell Manufacturing Complex Historic District in Erie, Erie County. © W. Craig "Bus" Scott Collection.

within their municipal boundaries are the Historic District Act, the Municipalities Planning Code, and Home Rule Charters. Some understanding of the advantages, disadvantages, and limits of each alternative may help a community to choose the most suitable legal instrument for its own circumstance. A number of particulars need to be outlined before considering protection. For instance, what needs to be protected? How much should be regulated, and why? Is historic district designation the best means of implementing a municipality's economic and community development plan? Would a conservation district be more useful? Part II, "Historic Districts Regulated and Protected by Ordinance," offers guidelines on answering these and similar questions.

Familiarity with legal issues and prior challenges to historic districts may be useful to governing bodies, solicitors, and BHARs when considering the issuance or denial of certificates of appropriateness or building permits for the erection, demolition, or alteration of historic buildings within a historic district. These issues are clarified in the chapter, "Legal Issues and Challenges to Historic District Ordinances."

Once a historic district boundary has been established, the ordinance drafted and enacted (see the section "Adopting a Historic District Ordinance"), and all of the preliminary steps have been followed, an understanding of the role of the BHAR is crucial. Administering a historic district efficiently, fairly, and with firmness is indispensable to the successful protection of the community's historic built environment. In this booklet you will find advice based on the successes and failures of professional and lay practitioners, including those of the author, who, as a historic preservation planner and community preservation specialist, has worked with local government officials, historic preservation advocates, and the public at large to provide technical assistance for the protection of the Keystone State's historic resources.

In addition to two decades of statewide experience with the PHMC, the author served as the historic preservation officer for the City of Reading, Berks County, for eleven years.

Topics in this publication also include:

- Specific grant information available for historic preservation programs and projects;
- The National Register of Historic Places and its role independent of, and in relation to, the establishment of a local historic district;
- Investment rehabilitation tax credit incentives for eligible historic buildings;
- The Certified Local Government (CLG) program of the National Park Service; and
- Appendices with the Historic District Act, procedural steps to establish a historic district ordinance, historic preservation plan guidance, and a list of municipalities that have established historic districts protected by historic or preservation ordinances.

It cannot be sufficiently emphasized that protection of a community's cultural resources ultimately reside at the local government level—much to the chagrin of many historic preservation advocates. While the National Historic Preservation Act of 1966, as amended, establishes oversight of federally funded and permitted activities, cultural resources are best protected through a community endeavor with the cooperation of property owners and through the political will of the governing body.

## **Historic Preservation in Pennsylvania**

Since 1961, Pennsylvania municipalities have enjoyed a special opportunity to preserve and rehabilitate historic structures, buildings, and neighborhoods that possess historical and architectural significance. That year the General Assembly of Pennsylvania enacted legislation, 1961 P. L. 282, No. 167, to enable municipalities, which includes counties, to designate

certain areas as historic districts. To date, ninety local governments have enacted local historic district ordinances regulating 116 historic districts, protecting thousands of historic properties. Home Rule Charter governments, such as the Cities of Philadelphia and Pittsburgh, regulate and protect a combined total of twenty-three historic districts. An increasing number of municipalities are also regulating and protecting historic resources through zoning and subdivision ordinances.

Over time the historical and architectural heritage of our Commonwealth has been threatened by private and public actions that have either destroyed or irrevocably altered the original appearance of numerous buildings, structures, neighborhoods, and landscapes. With the passage of a local historic district ordinance, communities can determine to what extent they wish to preserve and regulate changes to the exterior of buildings or structures that can be seen from a public way.

Historic district designation in the United States began in the 1930s, and its continuing popularity confirms its viability as an important planning and economic tool to assist in the revitalization of residential neighborhoods and central business districts. Historic district designation is reputed to increase or stabilize property values, foster pride and appreciation of the historic built environment, and consequently contribute to the quality of life of communities. Charleston, South Carolina, enacted the first historic district legislation in the United States in 1931. New Orleans followed six years later. As of February 2007, according to the National Alliance of Preservation Commissions, approximately 3,500 historical commissions in the United States oversee historic preservation ordinances that help protect historic areas containing thousands of historic buildings. This is a dramatic increase from 1978 when only 500 historical commissions existed.

In 1959, Rhode Island was the first state to enact statewide historic district enabling legislation, followed by Mas-

sachusetts in 1960, and Connecticut and Pennsylvania in 1961. Since 1961, ninety Pennsylvania municipalities have had 116 districts certified as historically significant by the PHMC, a requirement of the Historic District Act. Historic district ordinances cannot be enforced until the Commissioners, appointed by the governor, approve a resolution certifying the historical significance of a district. This requirement is necessary even if a district has been listed in the National Register of Historic Places. As of 2007, more than six hundred Pennsylvania historic districts, including most of the locally regulated districts, have been listed in the National Register of Historic Places. However, simply listing a property on the National Register does not guarantee protection from adverse effects or demolition.

## Districts and Landmarks

The terms historic district and historic landmark are used in different ways in this booklet. In Pennsylvania, there are two main types of historic districts.

*National Register Historic Districts* are areas that possess a significant concentration, linkage, or continuity of historic buildings, structures, objects, or sites designated by the National Park Service as worthy of preservation. The National Register of Historic Places is the official federal list of resources reflecting the nation's cultural heritage. Eligibility or inclusion in the National Register affords the State Historic Preservation Office (the PHMC's Bureau for Historic Preservation), local government and the public, input from the effects of a federal agency's actions that assist, permit, or license activities on a historic resource.

In 1978, the PHMC established the Pennsylvania Register of Historic Places to provide recognition of the Commonwealth's historically significant historic resources. This program was discontinued and replaced by the National Register of Historic Places. Currently, the only official state recognition program for historically signifi-

cant properties not included in a historic district is a determination of eligibility or listing in the National Register of Historic Places. Income-producing properties listed in the National Register may qualify for certain federal rehabilitation investment tax incentives. In certain cases, buildings or structures eligible for, or listed in, the National Register owned or leased by nonprofit organizations or agencies, may be eligible for grant opportunities (see section under "Historic Preservation Grants" for further details).

*Municipally Regulated Historic Districts* are areas that are either residential or commercial neighborhoods, or a combination of both. They are delineated by boundaries that include buildings, structures, objects, or sites that may be listed in or eligible for the National Register, and are subject to regulation and protection by local ordinance. Historic district ordinances generally contain provisions regulating demolition and exterior alteration of buildings and structures within the historic district. In Pennsylvania, the Historic District Act requires that a Board of Historical Architectural Review (BHAR) be established to review and make recommendations to the elected governing body (city/borough council, supervisors, and commissioners) as to the appropriateness of changes to buildings.

Listing in the National Register of Historic Places *does not* protect historic buildings or structures from demolition or inappropriate alterations by private property owners who use their personal funds. On the other hand, local historic district ordinances can regulate demolition, alterations, additions, and new construction of buildings and structures, thereby providing protection of the historic and architectural character of a historic district.

## Historic Resources

Historic resources can be buildings, structures, objects, sites, or archaeological artifacts that have been identified as either eligible to or listed in the National Register. A resource

may also be identified as historic by a community solely on the basis of its age and prior importance to that community, even if it is not found to be eligible to the National Register (see, for example, protection of such landmarks in historic preservation sections in zoning ordinances, under the section "Protecting Dispersed Historic Resources"). Pennsylvania municipalities now have a greater opportunity to designate historic districts thanks to a March 15, 2006, PHMC resolution, "Policy for Determining Historical Significance of Local Historic Districts and Boundary Justification Pursuant to the Pennsylvania Historic District Act (Act 167)." Consult the appendices for the full text of the resolution.

## Recycling Historic Buildings and Structures

Reuse and rehabilitation of buildings and structures became a viable alternative in the 1970s, a radical departure from the massive slum clearance programs of the urban renewal era of the 1950s and 1960s, concern over which contributed to the eventual passage by Congress of the National Historic Preservation Act in 1966. During the 1970s, increased energy and raw material costs made certain construction projects prohibitive and the reuse of existing structures more attractive. In addition, federal and state policymakers, in an effort to combat unemployment, targeted building rehabilitation as more labor-intensive than new construction. Preservation and reuse of existing buildings and structures were found to put new life into older neighborhoods while minimizing the dislocation of low-income residents associated with urban renewal. Lastly, the preservation of the historic built environment has demonstrated that it contributes to the cultural vitality and quality of life of communities, linking the present to the past.

## Part II *Historic Districts Regulated and Protected by Ordinance*

### How to Create a Historic District

Recognition by a community that a particular area or neighborhood possesses historic significance may be a gradual process or a sudden revelation. Such recognition is often initiated by citizens concerned about the incremental loss of the architectural character of older buildings and structures in neighborhoods, by the unanticipated demolition of a beloved local historic landmark, or by the decline of residential or commercial neighborhoods. Economic development considerations certainly play an important role in galvanizing citizen action. Whatever the reason, there are combinations of approaches that municipalities can take to protect and promote their historic built environment, as well as plan for residential and commercial revitalization. These include listing an area or neighborhood as a historic district in the National Register of Historic Places and protecting the historic district by means of a stand-alone local historic district ordinance or by including a historic preservation section in a zoning ordinance. The choice depends on the municipality's objectives, the status of the historic resource or resources, and the public's receptivity to local government regulations.

One of the first steps before considering either of the above approaches is to substantiate the extent to which the historic and architectural legacy survives. Urgency (threatened buildings) and financial considerations (limited budgets) need to be evaluated to determine the initial level of survey activity required to identify this legacy.

Besides providing a planning document of the present historical and architectural environment, a survey/inventory can be used to inform, educate, and sensitize the public to the cultural and economic value of

the community's historic character. With the survey completed, the next step is for the municipality to consider how much of its historic environment it wishes to preserve. In other words, to what extent does the community appreciate what constitutes its built heritage? What does it envision for the future? When citizens participating in the process have reached a consensus, the adoption of a historic district ordinance may follow. The final step is the certification of the area's historical significance by the PHMC as required by Pennsylvania's Historic District Act.

Technical assistance, such as survey guidelines, boundary delineation, and ordinance review, or advice to municipalities, historical societies, historic preservation organizations, and private citizens in establishing a historic district is available from the PHMC's Bureau for Historic Preservation. In addition, you may want to refer to the PHMC's Web site at [www.phmc.state.pa.us](http://www.phmc.state.pa.us) and click on any of the subheadings for a wealth of information on related topics and links under "Historic Preservation."

### Survey of the Proposed Historic District

While a comprehensive survey of historic buildings, structures, sites, or areas in a proposed historic district is the preferred first choice, taking this step in the designation process may not always be feasible because of impending demolition or development pressures affecting historic resources in the proposed district. Moreover, the availability of funding and/or volunteer assistance may be scarce, making a preliminary survey the only practical approach. As long as the community understands the scope and value of its historic resources and can substantiate it with adequate documentation, a thorough survey and building inventory may be postponed to a later date. If funds are available, consider hiring a qualified consultant to undertake this initial step.

Limited funding for surveys and preservation planning is available from the BHP. The survey should follow the Bureau's "Guidelines for Historic Resource Surveys in Pennsylvania." The state's enabling legislation, the Historic District Act, requires that the PHMC certify the historical significance of the



*The William Mercer Farm in the Paradise Valley Historic District, Chester County. Photo by Frederick Richards.*

proposed historic district; this documentation must be provided by using the Pennsylvania Historic Resource Survey Form available from the BHP (which can be downloaded from the PHMC Web site). The form includes instructions to assist the applicant. A copy of the historic district ordinance signed in to law by the appropriate local government official(s) must accompany a completed survey form.

## **Gaining Owner and Citizen Support**

The survey determines the extent of contributing and noncontributing historic buildings and structures in the proposed historic district, and establishes district boundaries. A contributing resource, according to the National Park Service, “adds to the historic associations, historic architectural qualities, or archaeological values for which a property is significant.” While historic designation does not necessarily lead to regulation, it is recommended that, at the initial stage, citizens be informed about the purpose of the survey and the potential for the establishment of a historic district protected and regulated by ordinance. To illustrate, historic district ordinances commonly require review by local government of proposed changes to the exterior of a building or structure. Owners of these properties, therefore, take on additional responsibilities and face recommendations set by the Board of Historical Architectural Review or historical commission on such matters as appropriate repairs or building materials. Accordingly, the majority of property owners affected should support the idea of becoming part of a historic district. Bear in mind that the survey can also be a tool to gain citizen support. Residents of the area may, under professional guidance, assist in the survey process. Publicized survey results will provide citizens with a better understanding and deeper appreciation of their cultural heritage, ultimately enhancing community pride. A successful survey will also demonstrate the need to preserve this heritage.

Another way to gain community support for a historic district is to publicize the findings of the survey through a series of newspaper articles or pamphlets, and by organizing a series of public meetings conducted by proponents of historic preservation, neighborhood organizations, and local government planning and economic development representatives. Inviting elected officials, business owners, merchants, and citizens from communities that have successfully implemented a historic preservation program and administered a historic district ordinance is convincing evidence that historic district designation and protection is good public policy. Business owners can provide an important perspective on a historic district, demonstrating that such designation will not impede business. Such assurance may allay some of the doubts and fears associated with a new set of rules and regulations. Opponents or individuals skeptical of the effects of a historic district ordinance should not be summarily dismissed as merely obstructionists. To many individuals, the concept of private property is sacrosanct and relinquishing even a modicum of autonomy is more difficult for some to contemplate than others. Such misgivings ought to be fully aired, discussed, and considered before a final draft of the historic district ordinance is written.

Perhaps a more inclusive way of galvanizing public support to establish a historic district or preservation ordinance is to undertake “community visioning.” The concept is simple: provide a forum open to everyone in the community and facilitated by a nonpartisan individual or group where residents can express what they value about their community. Be sure to invite children and youths as their input is as important as everyone else’s. Generally, people will identify the historic built environment of their community as important to the quality of life. After several visioning sessions residents may conclude that some regulatory protection is necessary.

Subsequently, by identifying what should be preserved of the historic built environment, a historic district ordinance can reflect the preservation goals of the community. The community visioning approach may result in more “buy-in,” or participation, than other approaches; however, when historic resources are under imminent threat of demolition, a municipality or historic preservation advocates may not have the luxury of undertaking a community visioning process which takes time, concerted human input, and financial resources. To learn more about the community visioning process, contact The Center for Rural Pennsylvania, a legislative agency of the General Assembly of Pennsylvania, at (717) 787-9555, or visit [www.ruralpa.org](http://www.ruralpa.org) on the Web.

## **Taking the First Missteps**

It has frequently taken years—even decades—of community effort for the passage of a historic district ordinance by a municipal council. Too often, the best intentions of a small group of influential and concerned citizens who worked hard to develop a proposed historic district ordinance are dashed when word spreads that property owners will be faced by an onerous ordinance that regulates what they should or should not do to their properties. Rumors fly, gruesome scenarios are imagined, council or township board members receive telephone calls from irate residents who lambaste them for even daring to consider the idea. What could ultimately be an excellent approach to promoting a municipality’s historic architecture and cultural resources is prematurely rejected even before it has a chance to be debated, explored, and attempted.

## **What Went Wrong?**

When governing bodies officially advertise a meeting to introduce the historic district ordinance and to seek public input, it’s inevitable that certain individuals—who, for decades, haven’t been involved in local government affairs whatsoever—attend the meeting

to object to the ordinance for reasons that all too often are based more on a misunderstanding of the goals of the ordinance or because they fear that they will be required to “restore” their property causing them a major financial burden. Some believe they should be able to do what they wish with their properties, although they would be among the first to complain to municipal officials if their neighbor constructed a ten-foot-high stockade fence blocking their view. The idea that a group of self-appointed arbiters of taste will now oversee what they can or cannot do to their homes is, for many, the proverbial last bureaucratic straw to break the camel’s back. But the question that needs to be asked is: *Could these misconceptions have been avoided?*

## Failure is Paved with Good Intentions

The ad hoc committee that initiated the idea of protecting the community’s historic built environment was most likely motivated by a genuine concern for the loss of historic buildings, for the imminent demolition of a local landmark, or for the gradual but pronounced deterioration of a residential neighborhood or loss of retail businesses on Main Street.

Instead of involving the public to discuss what should be done about these problems and seek community comment, the committee came up with a “ready made” solution unintentionally disregarding community

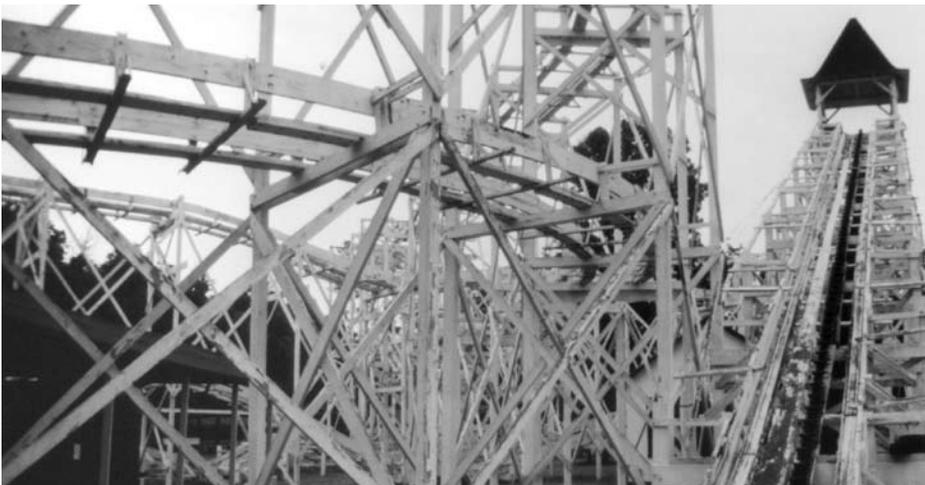
input. What commonly results is that concerned citizens get together to develop a historic preservation ordinance based on a model available from the Pennsylvania Historical and Museum Commission’s Bureau for Historic Preservation and too hastily want it enacted by the governing body. The ultimate result is often failure, not only because the public has not been involved in the discussion, but because the average person is generally not familiar with the arcane wording of statutes or ordinances. The wording of many such ordinances and statutes seems obscure and difficult to understand. Ordinances are often written in general terms but what is actually regulated can be and is more than likely less restrictive than the wording allows. However, on an initial reading an individual may throw up his or her hands in dismay or disgust and reject the entire ordinance without fully comprehending its provisions, thereby rejecting the whole rather than the offending part.

## What Vision?

Many citizens may grow weary of hearing about the “visioning” process. If there is time and some funding, as well as no imminent threat to a historic building or structure, historic preservation advocates may find that the community will support the preservation of the municipality’s cultural resources if it has an opportunity to participate in an open and facilitated discussion about the community’s

future. When members of the community, young and old, working and retired, are asked what it is about their community that they want to retain, change, or improve, it’s surprising that there tends to be a consensus that the historic built environment and traditional neighborhoods are worthy of preservation. The jargon of the preservationist or professional planner may not be used, but a basic fact holds true: people who care about their community want to preserve a great portion of its physical appearance. They still want to see some changes, new construction, and new businesses but, generally, they want these changes integrated into the existing built environment. Ironically, the individuals who care most for their community unwittingly sabotage their hard work by alienating friends and neighbors because they:

- Fail to involve them in early discussions.
- Promise that property values will rise within a short period once a district ordinance is passed. (*It may take several years for property values to increase.*)
- State that the municipality will not incur extra costs to administer the ordinance. (*The fact is some costs, even if minimal, will be incurred.*)
- Neglect a segment of the population, such as ethnic groups, teenagers, or the elderly during outreach or informational initiatives. (*Successful programs engage all segments of the community in meaningful dialogue.*)
- Discount the fact that the ordinance will create yet another layer of bureaucracy and another mile of red tape. (*An ordinance will create both, but the inconvenience is well worth it because the results are positive.*)
- Ignore the objections of certain property owners who feel that their private property rights are jeopardized.



*Leap-the-Dips Roller Coaster in Lakemont Park, Altoona, Blair County, recipient of a Keystone Grant to stabilize and restore the structure, rails, and cars. PHMC file photo.*

*(It is better to admit at the very beginning that passage of a historic district ordinance can be an inconvenience at times and that a property owner may give up a certain amount of autonomy over his or her property, but that the benefits usually outweigh the disadvantages.)*

- Discount the extra work this will create on already overworked municipal employees. *(Nearly all municipal employees already have more work than they can handle.)*

- Initiate a historic district ordinance for reasons other than the preservation of historic districts. *(Some people erroneously believe that a historic district ordinance will discourage, prevent, or remove undesirable persons from living in a designated historic neighborhood.)*

- Fail to meet with civic, business, and fraternal organizations to explain the purpose of the ordinance. *(Individuals, institutions, and organizations should be made to feel like stakeholders.)*

- Fail to alert district justices (magistrates) of the purpose of the historic district ordinance. *(It is worth remembering that our form of government is made up of three branches.)*

## What Successful Municipalities Do

There are several important steps that the municipality will need to undertake if it is to succeed in administering its historic district ordinance and, in a larger sense, its historic preservation program. The following suggestions are certainly not intended to be implemented all at once; instead, consider phasing them in over time as resources allow. Asterisks indicate priorities.

- Prepare the public for the effect of the ordinance.\*

- Publicize that new regulations have been established and the *reasons* for them through local media.

- Develop, print, and distribute informational brochures about the historic district and the ordinance and the responsibility of property owners and contractors.\*

- Develop, print, and distribute historic district design guidelines to

explain and illustrate the appropriate and inappropriate maintenance, repairs, and design approaches, and to provide an overview of the history of the municipality, its architectural styles, a map of the district, and the steps required by property owners and their contractors to acquire a certificate of appropriateness.

- Notify property owners, contractors, real estate agents, and brokers of the positive effects of the ordinance.\*

- Alert local contractors, including signage firms, of the passage of the ordinance and the steps that property owners will have to follow before work can proceed on a property in the historic district.

- Alert real estate firms to notify prospective buyers of properties in the historic district of the ordinance. The Pennsylvania Association of Realtors® requires this disclosure.

- Prepare municipal staff for administering the ordinance.\*

- Allocate space for file cabinets, desk, computer, etc.

- Purchase digital camera for documenting projects.

- Develop an essential library of historic preservation books.

- Become a member of the National Trust for Historic Preservation, the National Alliance of Preservation Commissions, and Preservation Pennsylvania, Inc.

- Develop a certificate of appropriateness application form.\*

- Develop a flow chart showing the steps to acquire various permits such as zoning, subdivision, and building, including the certificate of appropriateness.

- Clearly define the role of the code administrator who will oversee the administration of the ordinance. Make certain he or she is supportive of the goals of the municipality, or at a minimum fully understands its purpose.

- Designate who will be responsible for taking the Board of Histor-

ical Architectural Review meeting minutes, prepare the meeting agenda, and send notification letters to applicants for certificates of appropriateness.\*

- Appoint professionals to the Board of Historical Architectural Review as required by state enabling law, for example, a registered architect, building inspector, or licensed real estate broker.

- Coordinate historic preservation efforts with Main Street, Elm Street, or Downtown Improvement District managers and their boards, the local chamber of commerce, and other community groups.

- Identify and apply for grants that can assist the municipality to implement many of its preservation initiatives.

- Apply for the National Park Service “Certified Local Government Program.” (Several municipalities have done so and benefited from grant awards.)

If you suspect that establishing a historic preservation program and administering a historic district is serious business, you are correct. However, this should not dissuade a municipality from going ahead. Municipalities considering this planning approach can learn a lot from many of the experienced staff and volunteers of well-administered municipalities with historic districts and preservation programs, many of which have been in existence for more than several decades. Pennsylvania boasts a number of boroughs that have excelled in this endeavor, including Newtown, Doylestown, New Hope, Gettysburg, Hollidaysburg, Chalfont, Harmony, Bellefonte, Carlisle, Phoenixville, and Pottstown. Townships include Lower Merion, Cheltenham, Warwick, and West Whiteland. All these municipalities have stayed the course over many years and the result can't help but convince the most skeptical individual that a well-administered historic preservation program and historic district ordinance creates an economically viable and vibrant place to work and live.

The successes of these boroughs and those of townships and cities attest to the viability of implementing an array of historic preservation activities. Just in the past five years a number of municipalities have enacted historic district ordinances or expanded their historic districts, most notably Doylestown, in Bucks County, and Gettysburg, in Adams County. Of the former there are quite a number. In Allegheny County, three contiguous municipalities sharing one historic district have combined their efforts by contributing members to one Board of Historical Architectural Review; they are Homestead, West Homestead, and Munhall. The following municipalities recently enacted historic district ordinances: Millheim, Centre County; Mechanicsburg, Cumberland County; Columbia, Lancaster County; Norristown and North Wales, Montgomery County; Milford, Pike County; Stroudsburg, Monroe County; and Wellsboro, Tioga County.

In conclusion, to establish a historic preservation program that includes the passage of a preservation or historic district ordinance or historic preservation “overlay” in the zoning ordinance and expect positive results, it may be a good idea to confer with municipalities that have stayed the course over the years. Refer to the appendices for the list of Pennsylvania municipalities that have established historic district or preservation ordinances.

## Adopting a Historic District Ordinance

After the survey has been completed, the Pennsylvania Historic Resource Survey Form prepared, and the historic district ordinance drafted by the municipality and reviewed by the Bureau for Historic Preservation, the stage for adoption of the historic district ordinance by the local government will have been set. The next step is a public notice advertising a formal hearing at which the governing body presides and introduces the historic district ordinance. Copies of the ordinance must be made available to the



400 Block of Allegheny Street (south side) in the Hollidaysburg Historic District, Blair County, protected and regulated by a municipal historic district ordinance. Photo by L. Paul.

public. It is helpful to attach a brief summary of the purpose of the ordinance with a map clearly delineating historic district boundaries.

The enabling state legislation specifies that, “All counties, cities, (except cities of the first or second class), boroughs, incorporated towns, and townships are hereby authorized to create and define, by ordinance, a historic district or district within the geographic limits of such political subdivision.” The legislation goes on to say that, “no such ordinance shall take effect until the Pennsylvania Historical and Museum Commission has been notified, in writing, of the ordinance and has certified, by resolution, to the historical significance of the district within the limits defined in the ordinance.” This applies not only to passage of the ordinance, but also to subsequent amendments to the ordinance in the form of boundary changes.

## Important Elements of a Historic District Ordinance

A. Refer to the enabling legislation/authorization (Historic District Act, the Municipalities Planning Code, or Home Rule Charter).

B. State the purpose of the ordinance (refer to specific enabling legislation and/or the state constitution, Article 1, Section 27, “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment”).

C. Define all technical or unfamiliar terms, such as historic preservation, restoration, rehabilitation, demolition, and alteration used in the ordinance.

D. Provide a verbal boundary description, which describes metes and bounds, streets and property lines, and reference to an official map.

E. Include criteria for designation of historic districts and landmarks, if authorized.

F. Create the Board of Historical Architectural Review (BHAR) and/or local historical commission.

G. Describe duties, powers, and responsibilities of the BHAR/historical commission.

H. Explain actions that are reviewable by the BHAR/historical commission.

I. Develop design standards, guidelines, and criteria by which recommendations and decisions will be made.

J. Include a demolition by neglect section.

K. Include an unreasonable economic hardship section.

L. Describe the certificate of appropriateness application review procedure.

M. State the fines and penalties for violation of ordinance requirements.

An annotated model ordinance is available free from the Bureau for Historic Preservation. Bear in mind that the municipality should draft a historic district ordinance that best fits its needs. What and how much is regulated should depend on the community’s

willingness and ability to accept regulations. Remember to ask: Does the municipality possess the resources, finances, personnel, and volunteers to administer a historic district? Does the historic ordinance reflect community consensus protecting and preserving its historic resources? Too much or too little regulation may defeat the purpose of the historic preservation plan.

## Other Options for Protection

In Pennsylvania, local governments have a degree of flexibility in their approach to the protection of their historic resources. Under authority of Act 167 of 1961, a municipality may adopt a “special purpose” historic district ordinance. In other words, a municipality that has no zoning regulations may still enact a special purpose ordinance to create a historic district.

Another option for protecting a municipality’s historic resources is the Pennsylvania Municipalities Planning Code (MPC), Article VI. This provides local governing bodies with zoning powers for, among other purposes under § 604(1), the “preservation of the natural, scenic, and historic values, aquifers and floodplain,” and under § 605(2), the regulation of “places having unique historical, architectural or patriotic interest or value.” The use of zoning to protect historic resources was further reinforced by amendments to the MPC reflecting changes made by Act 68 of 2000, P. L. 495, No. 68, specifically under § 603 (g) (2), which reads, “zoning ordinances shall provide for protection of natural and historic features and resources.” The MPC authorizes the protection of historic resources independent of the Historic District Act, and several municipalities have proceeded along these lines. (Samples of these ordinances are available from the Bureau for Historic Preservation). This approach may be desirable in communities that have individual historic resources worthy of preservation but lack a concentration of buildings that form a clear-cut district. In localities where the concern is

primarily with the preservation of a densely developed historic district, Act 167 is most likely the appropriate option. The specificity of Act 167, designed expressly for the purpose of creating historic districts, provides local authorities with a frame of reference, as well as the mechanism for preserving the district by appointment of a Board of Historical Architectural Review.

If the municipality adopts a historic district ordinance, it should note that fact in its zoning ordinance. This will provide an opportunity to consider

conflicting goals. It is essential that goals between zoning ordinance and the historic district ordinance be compatible—this cannot be emphasized enough. Too often zoning regulations require setbacks and parking requirements appropriate for a suburban setting, but which may be incompatible with the community’s historic development pattern and, therefore, in conflict with the preservation of its historic character. Local governments may want to consider enforcing the International Existing Building Code



*Pittsburgh Downtown Historic District, northeast side of Sixth Avenue near Smithfield Street, Allegheny County, protected and regulated by a historic preservation ordinance. Photo by Marlin Aurand.*

to facilitate the rehabilitation and reuse of older and historic buildings; this code, along with appropriate zoning regulations, will help to revitalize blighted and underused buildings.

An ordinance is only *one* means of preserving historically and architecturally significant environments and resources. Other legal tools include easements and deed covenants. Private means of protection include outright acquisition and appropriate rehabilitation of historic buildings.

The historic district approach, however, offers the most advantages. Perhaps the most important is that the regulation of the district lies not at the federal or state level but at the local level. In this respect, district designation is a bottom-up decision not imposed or mandated on the community by federal or state regulations. Rather, it is a grassroots initiative, the recognition by a community of the significance of its historic character, and it demonstrates the community's commitment to protect it.

## **Certification of Historical Significance**

The information pertaining to the historical background and significance of the proposed district should be submitted on a Pennsylvania Historic Resource Survey Form and sent to the Pennsylvania Historical and Museum Commission's Bureau for Historic Preservation, unless the area in question has been previously added to the National Register. In addition, the municipality must provide a copy of the historic district ordinance signed by the executive authority (chairman of the board of commissioners) of any county, the mayor of any city, except a city of the first class, the president of council of any borough, and so forth, and adopted by the governing body. The boundaries of the proposed historic district must be clearly delineated on a map and accurately described in a written form. The boundaries of the proposed district are thoroughly reviewed in relation to the area's historical character. The recommendation of

the Bureau for Historic Preservation staff is submitted to the executive director of the Pennsylvania Historical and Museum Commission to be placed on the commissioners' (appointed by the governor) quarterly meeting agenda and acted on by formal resolution of that body. **Refer to the appendices for important policy changes regarding the certification of historic districts under the Historic District Act and Steps to Establish a Historic District Ordinance.**

## **Implementing the Historic District Ordinance**

The Pennsylvania Historical and Museum Commission notifies the local government of its certification of the historical significance of the historic district. After receipt of the Commission's resolution, the governing body appoints a Board of Historical Architectural Review (BHAR) to "give counsel to the governing body . . . regarding the advisability of issuing any certificate" authorized by Act 167. In other words, the BHAR advises the governing body whether to issue a permit for work proposed on a building within the historic district.

The board is a quasi-judicial, advisory body composed of a minimum of five members, among whom must be a registered architect, a licensed real estate broker, a building inspector, and two or more citizens who have knowledge and interest in disciplines associated with historic preservation. The role of the board is to review plans and specifications for the erection, reconstruction, alteration, restoration, demolition, or razing of any building in the district, and to certify those plans or specifications as appropriate to the historic character of the district. Keep in mind that ninety percent of reviewable projects are of a maintenance and repair nature, requiring a minimal number of specifications.

Persons requesting a permit to do reviewable work in the historic district must be given notice of the meetings of the BHAR and the governing body. At these meetings the applicant must

be given the opportunity to explain the reason for the proposed work. If, after review by the BHAR, the governing body rejects the request, it must indicate what changes in the plans and specifications would meet its conditions for maintaining the historic character of the district. Section 4 (b) of Act 167 provides:

*The governing body shall pass upon the appropriateness of exterior architectural features which can be seen from a public street or way, only, and shall consider the general design, arrangement, texture, material and color of the building or structure and the relation of such factors to the similar features of buildings and structures within the district.*

The historic district ordinance makes it possible to regulate the appearance of more than just an individual building in the district. The ordinance is an effective means of assuming responsibility for a historically and architecturally significant area, such as several city blocks or a crossroads village. Implementing a historic district ordinance is not always easy. Historic districts containing a mix of historic and contemporary architecture are more difficult to administer than districts that, in terms of period, style, and age, reflect a more homogeneous development. Because of this difficulty, the BHAR needs to make its design and rehabilitation recommendations on a case-by-case basis.

## **PHMC Certified Historic Districts**

An updated list of municipalities that have enacted historic district ordinances and have had their historic districts certified as historically significant by the Pennsylvania Historical and Museum Commission as mandated by the Historic District Act can be found in the appendices. For a list that includes names of Boards of Historical Architectural Review chairpersons and municipal staff, their telephone numbers, and mail and e-mail addresses, contact the Bureau for Historic Preservation.

## Part III Other Approaches to Protection

### The Municipalities Planning Code

Zoning is intended to provide a legal means of channeling growth and regulating the use of land by means of designating specific areas for commercial, residential, industrial, or mixed uses. In Pennsylvania, it is authorized under the Municipalities Planning Code, (MPC) Act 247 of 1968, as amended. A zoning ordinance should reflect the municipality's comprehensive plan.

Communities proposing to incorporate historic preservation provisions within their zoning ordinances should first look at their zoning classifications to identify conflict between historic preservation and development objectives. The zoning classifications should complement the goals of historic preservation; typical incongruities between zoning and historic preservation objectives center most often on off-street parking and setback requirements. The former regulation may require demolition of contiguous properties to satisfy parking requirements, while the latter regulation may require an inappropriate suburban setback in a historical urban environment. These and related issues may be addressed by the MPC's Article VII-A, "Traditional Neighborhood Development." In addition, specific zoning incentives such as special exceptions or conditional uses may be employed as a solution to preserving historic buildings. Be sure to examine the zoning issues carefully and plan to make changes to the zoning ordinance that reinforces your historic preservation goals.

For the past several years, certain municipalities have combined zoning and historic district regulations (based on the Historic District Act) within their zoning ordinances; however, numerous legal problems have come to the fore with this approach. These include, but are not limited to, the role of Boards of Historical Architectural



Oak Street in the Marianna Historic District, Washington County. Photo by Helen Mackey.

Review (BHAR) or historical commissions, and the legality of their advisory role in the issuance of zoning permits. A BHAR is authorized under the Historic District Act; on the other hand, a historical commission is created by municipal charter. Neither is authorized by the Municipalities Planning Code. To interface either of these bodies with the governing body and/or the zoning hearing board within a zoning regulation will require municipal solicitor input for its legal implications.

Under the Historic District Act, a building inspector issues a building permit once a certificate of appropriateness has been reviewed by the BHAR and approved by the governing body. The Historic District Act, in part, authorizes municipalities to review and regulate changes to the exterior of buildings and structures, whereas Article VI of the Municipalities Planning Code addresses the use of land, although not exclusively. These state enabling laws complement each other but neither quite fulfills all the requirement of protecting historic buildings and structures and the historic environment. Keeping land use and historic building review regulations separated and compatible with the

overall goals of the municipality, may, especially in case of protecting and regulating historic districts, be the best approach. Zoning ordinances emphasize use of property, while historic district ordinances, authorized by the Historic District Act, regulate the erection, reconstruction, restoration, demolition or razing and alterations (changes *only* to the exterior of buildings). If a municipality has a zoning ordinance and a separate historic district ordinance, the zoning regulations remain unaffected. In a sense, one could consider the historic district ordinance as an "overlay" on the zoning map. Presently, zoning regulations and/or subdivision ordinances appear to be the best legal tool available to municipalities to regulate dispersed historic resources that cannot be included within a historic district.

Although a historical commission is not authorized under the MPC, this body, nevertheless, can certainly provide testimony when sought by a municipality's planning commission, zoning officer, zoning hearing board, or governing body on issues related to historic preservation. However, final authority to deny or approve zoning permits must accord with MPC regulations. In those municipalities that

have established a stand-alone historic district ordinance and have added a historic preservation article to their zoning ordinances, the historical commission's responsibilities (with approval from the governing body) can encompass preservation and education planning activities, as well as helping to draft historic preservation design standards and guidelines. Historical commissions can undertake such projects as application for grant funding, development of a historic preservation plan, comprehensive survey of historic resources, organizing old house tours or fairs, and related activities and events.

Because the MPC, at the present time, does not require the Pennsylvania Historical and Museum Commission's participation in the establishment of historic preservation articles in zoning or subdivision ordinances (in contrast to the Historic District Act), no accurate count of municipalities that have established historic preservation articles in their zoning ordinances exists. However, a 2003 municipal survey undertaken by the Bureau for Historic Preservation identified 50 municipalities protecting historic resources through zoning regulations. Municipalities in Chester and Lancaster Counties led the way in this form of protection. West Whiteland Township and Warwick Township, both in Chester County, pioneered this approach.

Generally, a municipality appoints a historical commission responsible for assembling an official historic resource list approved by the governing body. Zoning ordinances that have been amended to include a historic preservation article may require that property owners who request permits for demolition or, in some cases, exterior changes to historic buildings or structures apply for a special exception or conditional use approval if their building or structure is included on the official historic resource list. Examples of historic preservation zoning articles are available from the Bureau for Historic Preservation.

## Protecting Dispersed Historic Resources

What does the Municipalities Planning Code offer to municipalities that, faced with the effects of suburban development, wish to protect historic resources from demolition? Until the year 2000, Article VI § 604 and § 605 were the sole explicit references acknowledging the importance of historic or patriotic resources. Section 604 authorizes the municipality to "promote, protect and facilitate" the "preservation of the natural, scenic and historic values in the environment." Section 605 provides for the "regulation, restriction or prohibition of uses and structures at, along or near: (vi) places having unique historical, architectural, or patriotic interest or value." As stated earlier, the addition of § 603(g)(2) "zoning ordinances shall provide for protection of natural and historic features and resources," reinforces the authority of local government to protect historic resources within their municipal boundaries.

From prior surveys, historic resources can be identified and "overlaid" on a zoning map, possibly classified according to their historical or architectural significance and protected by the addition of a historic preservation article in the zoning and subdivision regulations. Such historic preservation articles have not been legally challenged in the courts of Pennsylvania to date. On the other hand, ordinances based on the Historic District Act have been legally challenged since 1977 on constitutional grounds, but Pennsylvania courts have affirmed the powers of municipalities to designate properties as historic and regulate them without the direct consent or approval of property owners. Refer to the Pennsylvania Supreme Court decision *United Artists' Theater Circuit, Inc. v. City of Philadelphia Historical Commission* (1993) in reference to the Art Deco-style Boyd Theater.

To avoid accusations of arbitrary and capricious rulemaking in the historic resource designation and regula-

tory process, a municipality should develop criteria for inclusion based on sound scholarship and research and undergirded by what Justice William J. Brennan's majority *Penn Central Transportation Co. v. New York City* (1978) opinion referred to as a "comprehensive historic landmark preservation plan." The benchmark for historical significance, although not exclusively so, is the National Register of Historic Places. A municipality may create a historic resource list, which includes eligible and listed National Register resources, but may also legitimately include other resources based on other historic significance criteria.

## Historic Districts in Operation

Since enactment of the Historic District Act in 1961, Pennsylvania cities, boroughs, and townships have passed ordinances creating Act 167 historic districts. The City of Bethlehem created the first such district protected by a historic district ordinance in 1961. The benefits of historic district designation have been documented on both the national and state levels.

Advantages to designating a district as historic have been reported in publications of the National Trust for Historic Preservation. In 1987, the National Trust published a booklet entitled *Historic Preservation in American Communities*, which contains testimonials from communities throughout the United States that have implemented historic preservation strategies. Benefits often cited are increased tax revenues, increased tourism, an improved self-image in the community at large, and an increased appreciation for the community's heritage. The physical appearance of main streets has improved. Where once demolition was the first and last alternative, buildings have been historically rehabilitated. In addition, some communities stated that they have derived benefits "from having a historic district ordinance, a Board of Historical Architectural Review or a historic preservation commission." When *Historic Districts*

*in Pennsylvania* was published in 1981, the former Pennsylvania Department of Community Affairs conducted an informal telephone survey of thirty communities in Pennsylvania that had enacted historic district ordinances. The result of this survey reflected positive responses similar to those reported by the National Trust.

To be accurate and fair, however, not all property owners have been in favor of such ordinances. Some business interests in the cities of Allentown and Lancaster initially opposed it for their respective downtowns. Since then, because of the positive impact that historic preservation has had since the inception of their first historic districts, both cities have exploited the economic benefits of historic preservation. Allentown added the West Park Historic District in 2001 under the protection of its historic district ordinance for a total of three historic districts. Lancaster enacted a Heritage Conservation District in 2000 regulating demolition, new construction, and major additions to buildings and structures in the National Register District that includes most of the city. On some occasions, a few complaints were noted regarding permit delays and arbitrary and capricious BHAR recommendations but overall review boards have been helpful, moderate, and fair in interpreting historic district ordinances. Since 1961 only two municipalities, Paxton Township in Dauphin County and Straban Township in Adams County, have rescinded their historic district ordinances. These exceptions prove the rule: the advantages of regulating historic districts outweigh the disadvantages. To expect support of 100 percent of all property owners is unrealistic. Generally, if more than half of property owners are willing to cooperate with the municipal authorities, the prognosis for a successfully administered historic district is relatively good.

While attempting to convince property owners, residents, and public officials that a historic designation or the passage of a historic district ordi-

nance is a worthwhile goal, you should avoid predicting dramatic changes in the economic or physical appearance of a neighborhood because these may not materialize in the time or to the extent hoped. Historic preservation advocates, enthusiastic in promoting their vision, promise, for example, that property values will increase. It is difficult to attribute historic district designation as the independent variable that “causes” an increase in property values. Other variables may have influence as well. News articles or reports purporting to demonstrate the validity of this view have relied more on hearsay than on sound statistical research. Hollidaysburg, Blair County, and West Chester, Chester County, both attribute property value increases to their historic district designation and historic preservation initiatives.

In conducting a survey to determine if this is the way for your community to proceed, you should be sure to include municipal officials in your queries and identify individuals who have personal experience living or working in a historic district, even if they had lived in a different community. The best indicator of the success of historic preservation strategies may be an on-site evaluation, including self-guided tours of historic districts. Communities such as West Chester, Bethlehem, Franklin, Bellefonte, Hollidaysburg, Mercersburg, Bedford, Lancaster, Doylestown, Ridley Park, Pittsburgh, Philadelphia, Ambridge, and many others, large and small, urban and rural, can serve as empirical evidence of the success or failure of historic district designation and local historic resource protection.

## Home Rule Charters

Home rule, as a concept, is intended to provide more independence to local governments from state legislatures. It originated during the Progressive Era of the first decades of the twentieth century. In 1922, Pennsylvania's state constitution was amended to include a provision for home rule. It was not until 1949, however, that the

state legislature authorized home rule for Philadelphia. Two years later, Philadelphia acquired the first home rule charter in Pennsylvania. In essence, home rule enables municipalities greater autonomy through the adoption of a local charter. Home rule municipalities can administer their governmental affairs unless otherwise prohibited by state law.

## Philadelphia

The Philadelphia Historical Commission was created in 1955 under the city's planning powers. The Commission, appointed by the mayor, is charged with listing and protecting buildings, structures, sites, objects, and historic districts that meet the criteria of the Philadelphia Historic Register. In 1984, the city repealed its original “Historic Building” ordinance, a section of the Philadelphia Code, and rewrote it as the “Historic Buildings, Structures, Sites, Objects, and District” ordinance. The Commission reviews, advises, and mandates that the effect of proposed work on a building, structure, site or object, such as alteration, demolition, and construction, be compatible with the retention of the historical, architectural, or aesthetic significance of the building, structure, site, or object, and its historic environment.

Prior to its 1984 ordinance revision, which precluded the city from designating historic districts, the Philadelphia Historical Commission could only designate and protect individual buildings. Approximately six thousand buildings and structures were protected and regulated in this manner, including those in Society Hill. As of 2007, the city also regulates and protects ten historic districts, including the Diamond Street Historic District, the Park Avenue Mall Historic District, the Rittenhouse-Fitler Residential Historic District, Spring Garden, and Old City. (See the appendices for a complete listing.)

The Philadelphia Historical Commission's successes in administering its historic preservation ordinance and



*The Berwind-White Mine 40 Historic District in Cambria County, looking northeast. Photo by Gerald M. Kuncio.*

promoting preservation planning are due to the cooperation of independent authorities, including the Philadelphia Redevelopment Authority, and a good working relationship with the Philadelphia City Planning Commission and the city's Department of Licenses and Inspections.

## **Pittsburgh**

In 1971, the Pittsburgh City Planning Commission was given the responsibility, without specific enforcement powers, to make recommendations to Pittsburgh City Council on the designation of historic districts and landmarks, and to provide historic preservation guidance to city officials regarding activities affecting the disposition of historic buildings and structures. It was not until 1979, when the city's Building Official Conference of America (BOCA) Code was amended to include a historic preservation ordinance, that endowed the present Pittsburgh Historic Review Commission with full police powers to approve or disapprove work to building exteriors. As of 2005, there were eleven historic districts and many dispersed historic landmarks protected and regulated under the historic preser-

vation ordinance. Some of these include Market Square (Downtown), Mexican War Streets, Manchester, Schenley Farms, and Penn-Liberty. (For a complete list, refer to the appendices.)

According to the 1979 historic preservation ordinance, as amended, "The Historic Review Commission shall review all new construction proposals, all demolition applications, all requests to make major alterations to a building, and all changes in materials." In addition, to facilitate and expedite the administration of the historic district and certificate of appropriateness process, the Pittsburgh Historic Review Commission has authorized professional staff to approve all applications to repair or replace building elements to match existing elements, requests to use standard approved elements, and proposals to restore the exterior of a building to a documented original condition. A similar administrative regulation has been established by the Philadelphia Historical Commission.

The Pittsburgh Historic Review Commission has the authority to establish local historic district review committees. At present, four historic districts are represented in this manner. Review committees range from six to

twelve members who are residents of and owners of property in the district. They have the authority to develop specific design guidelines for their area, and make design and maintenance recommendations about proposed work for the Pittsburgh Historic Review Commission's consideration.

## **The Conservation District: An Alternative?**

A conservation district may be an alternative approach to maintaining the economic and social viability of older neighborhoods and their overall character and identity, without the emphasis placed on preserving the historical architectural detailing of buildings usually reserved for historic districts. The definition of "conservation district" varies, and so the concept can be confusing because there is no single definition that can be applied to all situations or municipalities.

Conservation districts are often used for the protection and management of environmental and natural resources. Conservation districts may also be used to emphasize protection of a neighborhood's uniqueness or character. A conservation district ordinance may be, for example, a historic district ordinance empowered by the

Pennsylvania Historic District Act, but which does not regulate exterior alterations of buildings but, instead, regulates demolition, major additions, and new construction. The conservation district approach is a solution employed by local government officials and neighborhood activists to lessen the perceived or real financial burden on property owners.

Some communities in the United States have defined conservation districts similar to historic districts. Memphis, Tennessee, for example, has merged the two and identified a specific area of the city as a historic conservation district. On the other hand, a conservation district, as the term is used by other communities, identifies a neighborhood usually residential (but not always so) for a “treat sensitively” planning and development approach. The idea is to retain the general character-defining features of the area as a whole, such as its scale, setbacks, massing, and salient architectural features (refer to the Traditional Neighborhood Development section in this booklet). Thus, in a particular neighborhood this could be the front entrance stoops, contiguous front porches, or saw-toothed gable roofs. The goal is to retain a sense of place.

Identifying an area as a potential conservation district may be an alternative for protecting its important historical characteristics. Input from residents is crucial so that physical aspects of the neighborhood will not be overlooked by well-intentioned planners and public officials.

The intent for establishing conservation districts varies from municipality to municipality. Take, for example, the purpose of establishing conservation districts in the City of Portland, Oregon:

1. To protect and stabilize property values;
2. To protect desirable and unique physical features of the neighborhoods;
3. To prevent blighting caused by insensitive development, renovation, and redevelopment;

4. To provide enhancement of such areas;
5. To provide for the economic revitalization of the conservation district and its surrounding areas;
6. To provide for the economic vitality of the area; and
7. To provide a focus for necessary capital improvements.

What is not emphasized, although not entirely discounted, is the historical architectural environment. While conservation districts are usually located in older areas of urban environments, the housing stock may be modest both in size and in architectural detail. It is conceivable that the area might be eligible for listing in the National Register of Historic Places, but it is not a requirement for conservation district designation. However, there may still be enough of the historic fabric to warrant new construction in character with the historic environment of the area; the conservation district emphasizes compatible design.

Some conservation districts are established through ordinance and require property owners to go through a review of proposed work to the exterior of their buildings.

The type of activity requiring review varies but it is usually confined to major structural alterations, including demolitions, additions, and new construction. The review may be delegated to a neighborhood design committee or to municipal planners.

In Pennsylvania, the Municipalities Planning Code provides a municipality with the authority to establish a conservation district. Harrisburg passed its enabling legislation in 1995, titled the “Architectural Conservation Overlay District.” This conservation district idea took the form of an article in the city’s zoning ordinance. It provides an opportunity for concerned citizens to petition Harrisburg City Council to designate their neighborhood as a conservation district. Prior to changes to the MPC of 2000, the cities of Bethlehem and Lancaster rejected the MPC alternative and decided simply to enact

a historic district ordinance under the Historic District Act and call it a “conservation” district ordinance instead of a historic district ordinance.

The Lancaster and Bethlehem “conservation” district ordinances regulate only demolition, additions to existing buildings, and new construction. The name of the Board of Historical Architectural Review was changed and defined in Bethlehem as the South Bethlehem Historical Conservation Commission and in Lancaster as the Lancaster Historical Commission. The name change was mainly due to local political realities. Planners believed the public and the governing bodies would be more receptive to the conservation district concept than the historic preservation approach, which has had its share of controversy in both cities, in spite of the fact that each municipality enjoyed commendable success in regulating its historic district ordinance for several decades.

The process for certifying Bethlehem’s and Lancaster’s “conservation” districts is the same as was established by the Historic District Act. It requires that the Pennsylvania Historical and Museum Commission certify the historical significance of the proposed district. Each of the regulated “conservation” districts is listed in the National Register of Historic Places, although it is not a requirement of the Historic District Act.

The conservation district approach is a legitimate planning and regulatory tool to preserve traditional neighborhoods. However, if the use of the name “conservation” in this context is to obfuscate the true intent of a municipality, namely to deflect potential political opposition, that is to say, pretend that historic preservation is not the ultimate goal, then critics may have valid reasons to object to this strategy. In conclusion, had the respective solicitors of the cities of Lancaster and Bethlehem felt confident that the Municipalities Planning Code was, at that time, the appropriate state enabling law, they would have recommended its use. As of this writing, Pennsylvania



*Rittenhouse Historic District, 1800 block of Addison Street, looking east from 19th Street, Philadelphia. Photo by George E. Thomas.*

municipalities are able to address the preservation of traditional neighborhoods, as we have seen in several ways: through zoning and subdivision regulations, historic preservation regulations, historic district regulations, conservation district regulations, and traditional neighborhood regulations.

### **Traditional Neighborhood Development**

Another option for consideration by local governments that wish to maintain the traditional (historical) character of residential and commercial neighborhoods is available through the Municipalities Planning

Code, Article VII-A, titled “Traditional Neighborhood Development.” While this approach is aimed at preventing the adverse effect of sprawl, it can also be used to maintain the historic character of existing neighborhoods by preventing the intrusion of vehicular-driven design, for example, parking in front of businesses, curb cuts for drive-through services, and other amenities associated with a suburban environment. The intent is to allow for the “development of fully integrated, mixed-use pedestrian-oriented neighborhoods,” and “to foster a sense of place and community.”

The conservation district or traditional neighborhood development approach can provide municipalities with alternatives other than the historic district ordinance, which is limited to regulating buildings and structures. (Sample traditional neighborhood development ordinances are available from the Bureau of Historic Preservation.)

## Part IV *The National Park Service's "Certified Local Government Program"*

In 1966, Congress passed the National Historic Preservation Act, which has since undergone several amendments. The Act created the National Register of Historic Places, the Advisory Council on Historic Preservation, the Historic Preservation Fund and, in 1980, the Certified Local Government program (CLG). This program was established to allow local governments to participate directly in the national historic preservation program and to provide funding to local governments to carry out their historic preservation responsibilities, such as survey, inventory, designation, and protection of their historic resources. To attain CLG status in Pennsylvania, a municipality applies to the Pennsylvania Historical and Museum Commission's Bureau for Historic Preservation. Confusion has arisen over the word "certified" because it is used in three different contexts: 1) under Pennsylvania's Historic District Act it means that a municipality's district has been certified as historically significant by the PHMC; 2) as used by the National Park Service it means that a municipality has applied for and been approved for the Certified Local Government program; and 3) that the completed work of a federal rehabilitation investment tax credit project is certified as meeting the Secretary of the Interior's *Standards for the Treatment of Historic Properties*.

As of 2007, of ninety municipalities in Pennsylvania that protect one hundred-sixteen historic districts under Act 167, thirty-eight have this National Park Service status. Several critical requirements for CLG designation are:

1. Continuing in-service historic preservation training for Boards of Historical Architectural Review and historical commission members (eight hours of training are expected of each member annually);

2. Regular attendance at BHAR or historical commission meetings;

3. A good faith effort by the governing body to appoint BHAR members with professional qualifications and historic preservation backgrounds;

4. Submission of an annual report of the municipality's historic preservation activities;

5. Review and comment on National Register nomination applications within the municipality; and, most important of all,

6. Continuing enforcement of the municipality's historic district and/or historic preservation ordinance.

These requirements enhance the ability of the municipality to provide sound design and historic rehabilitation advice and recommendations to applicants and elected officials. All states are required to set aside 10 percent of their federal historic preservation grant funds to Certified Local Governments. In Pennsylvania, these CLG grants are presently offered as a ratio of 50 percent funding from the PHMC and 50 percent match (cash and in-kind) from the CLG. In the past, the types of projects, programs, and activities funded by CLG grants were intended to advance the preservation of a community's historic resources by awarding grants for historic resource surveys, historic preservation plans, National Register nominations, hiring of historic preservation staff or consultants, and design/maintenance guidelines, in addition to many other planning and educational initiatives. However, due to the critical need for staff or preservation consultant assistance to help administer historic preservation and district ordinances at the local government level, CLG grants will only fund BHAR member training and staff or consultant salaries.

To address the diminution of fundable projects and activities under the CLG Grant Program, CLGs will be provided with additional points in their competition for grants from the PHMC's History and Museum Grant program. For example, a CLG can apply for funding for projects such as historic preservation plans, historic district design guidelines, National Register nomination applications, and survey and inventory activities, etc., from the PHMC History and Museum Grant Program.



## Part V Legal Challenges to Historic Ordinances

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Courts have clearly established historic preservation as a legitimate public objective for local government under general police powers. The police power is the inherent right of government to regulate property to safeguard the public health, safety, and welfare. Challenges to government's land use regulations are a legacy of our democratic system and a permanent healthy tension between private property rights and the public good. Regulation of property for a historic preservation purpose is recognized as a part of the power to control land use through land use regulations as in zoning.

The chronology of historic district ordinances in the United States begins on October 13, 1931, with the ratification by Charleston, South Carolina, of its historic zoning ordinance, followed by New Orleans's establishment of the Vieux Carré Commission in 1936–1937, which gave the Commission authority to approve or deny building permits in the French Quarter Historic District. Since then, a slow but steady trickle of local historic district ordinances has been enacted in ensuing decades, with more than 3,500 now in place throughout the country. In 1961, Bethlehem's Moravian neighborhood became the first historic district to be protected under the Commonwealth's Historic District Act, although Philadelphia under its home rule charter had already taken a similar step by protecting individually listed properties as early as 1955 as part of its urban renewal plan.

Along with the establishment of historic district ordinances have come legal challenges. In 1941, *City of New Orleans v. Pergament* involved the owner of a gas station and the size and type of sign he proposed to install. The appellant's contention was that his service gas station was not a historic building and that the ordinance should not apply to his property. The ordinance was challenged as a taking

without due process of law. As a consequence of this decision, the "toute ensemble" doctrine evolved, namely that the power to regulate or restrict in a historic district or zone applies to all buildings in it, even though various individual buildings are not themselves of historic or architectural importance. In 1953, in *City of New Orleans v. Dan Levy*, the ordinance was challenged on various grounds, including the charge that aesthetic considerations were unconstitutional "and not within the police powers." The court reaffirmed the ordinance as being "in the interest of and beneficial to the inhabitants of New Orleans generally, the preserving of the Vieux Carré section being not only for its sentimental value but also for its commercial value, and hence it constitutes a valid exercise of the police power."

Another leading case on the constitutionality of preservation regulations was *Maher v. New Orleans* (1974). A number of important points can be culled from this case, two of which stand out: (1) demolition by neglect or affirmative maintenance requirements was determined by the United States District Court as "legitimate," and "reasonably necessary to the accomplishment of the goals of the ordinance"; and (2) the issue of an unconstitutional "taking" was revisited in this case, based on the old saw that the Vieux Carré ordinances devalued the owner's property. The court rejected this argument and stated that, "a zoning ordinance . . . will almost always reduce the value of rights of some individuals, but that does not make it unconstitutional."

The milestone case on the issue of historic landmark designation and historic preservation regulatory controls was brought before the United States Supreme Court in the case of *Penn Central Transportation Company v. City of New York* (1978). In 1967, the New York City Landmarks Preservation Commission had designated

Grand Central Terminal and the property it occupies as a historic landmark, thus requiring review and approval for proposed exterior work on the building. The commission rejected the terminal owners' proposal to lease the airspace above the building for the erection of a 55-story office tower.

The company appealed the commission's decision in court, claiming the city, through the commission, was taking its property for a public use without compensation in violation of its due process and equal protection guarantees under the Fifth and Fourteenth Amendments of the U. S. Constitution. The court's decision addressed a number of crucially important issues. The court reaffirmed its ruling (see *Berman v. Parker*, 1954) on the legitimacy of aesthetic considerations in government regulation of the public welfare and, by extension, the appropriateness of historic landmark and district designation. The court rejected the idea that regulating property was a taking because of the property's devaluation. The court made clear that the city's landmark regulation was not invalid just because it prevented Penn Central from developing its property for a more lucrative use. As long as the owners can "earn a reasonable return" on their investment there is no taking. The six-to-three decision of the United States Supreme Court, handed down on June 26, 1978, was a stunning victory for historic preservation efforts across the country. The city's right to make landmark designations to protect specific properties and to halt their demolition or alteration was vindicated. This case settled doubts that existed about the status of laws enacted to protect historic buildings at the local government level.

The court's decision affecting the status of Grand Central Terminal set an important precedent in upholding the validity of local ordinances creating landmark and historic district commissions throughout the United

States. The court rejected the chief argument used to attack historic commissions that landmark designations deprive the owner of the constitutionally protected right to do with his or her property what he or she will. The court's argument was based on previous decisions that upheld land use regulations, which affected real property interests as against the interest of the health, morals, or general welfare of the public.

## Pennsylvania Cases

### *City of York*

The first case arising in Pennsylvania challenging the constitutionality of the Historic District Act, based on the "taking" issue, was *The First Presbyterian Church of York v. City Council of the City of York*. In June 1976, Commonwealth Court upheld the Common Pleas Court of York County, which had earlier upheld the York City Council in denying a request by the church to demolish York House located within the historic district. Decided prior to *Penn Central*, the Pennsylvania court's decision anticipated Justice William J. Brennan's "reasonable return" concept and stated that the church had not demonstrated that "the refusal of the permit to demolish went so far as to preclude the use of York House for any purpose for which it was reasonably adapted . . . the church, having failed to show that a sale of the property was impracticable . . . had not carried its burden of proving a taking without just compensation." While "the taking of private property requires that just compensation be paid, it is also well-established that private property may be regulated to promote the public welfare."

The concern by local government officials as to the legality of regulating private property on the basis of its historical and aesthetic character can be laid to rest when the rationale for the regulation is reasonably related to that of the public welfare.

### *City of Harrisburg*

The Dauphin County Court of Common Pleas denied an appeal from a property owner who had been denied a demolition permit for two buildings in the Harrisburg Historic District, *Cleckner v. Harrisburg* (1979). The owner had first applied to the Board of Historical Architectural Review for a demolition permit. The board recommended against the issuance of the permit, not on the basis of the unique architectural or historical characteristics of the structures, but on their contribution to the overall historic character of the district. The court concurred with the board's view that the demolition of the buildings would be "detrimental to the preservation of the fabric of the Historic District." The court could find no evidence the board had committed an abuse of discretion. The owner of the properties had wanted to demolish the buildings to provide for commercial parking or a new building, as the best and most profitable use of the property.

While the court agreed that repair and rental of the buildings was not economically feasible, it held that "it is not established that the denial of the demolition permit amounts to a "taking" of the property. It has not been adequately demonstrated by appellant that a sale of the property is impossible or impractical."

### *City of Philadelphia: And Then There Was Boyd*

The Boyd Theater case may be considered a true anomaly, a departure from previous historic preservation legal cases. The story begins in 1987 when the Philadelphia Historical Commission designated the interior and the exterior of the Boyd Theater as a historic landmark under the authority of the city's Historic Buildings, Structures, Sites, Objects, and Districts Ordinance. The building, located in center-city Philadelphia, was constructed in 1928 in the Art Deco style. This designation recognized the theater as a rare example of an Art Deco movie palace, and its design by a

prominent Philadelphia architectural firm. The theater owner, Sameric Corporation, subsequently challenged the commission's landmark designation and filed suit in Philadelphia County Court of Common Pleas. The trial court affirmed the commission's decision and denied post-trial relief. Commonwealth Court affirmed. Historic preservationists' elation over the Commonwealth Court's decision was short-lived when the plaintiff appealed to the Pennsylvania Supreme Court, and the court's 1991 decision in *United Artists Theater Circuit Inc. v. City of Philadelphia, Philadelphia Historical Commission*, exploded fifty years of jurisprudence supportive of historic landmark designation. The court ruled that the designation of private property for historic preservation purposes without owner consent is a "taking" under the Pennsylvania Constitution, despite Article 1, Section 27, of the state's constitution, which states in part:

*The people have a right to clean air, pure water and to the preservation of natural, scenic, historic and aesthetic values of the environment . . .*

The court's decision caused an uproar in Pennsylvania's historic preservation community and the rest of the nation. Both sides filed *amicus curiae* briefs. Preservationists were represented by the National Trust for Historic Preservation, the Pennsylvania and the National Leagues of Cities, the City of Pittsburgh, the United States Conference of Mayors, the American Institute of Architects, the American Planning Association, the Pennsylvania Historical and Museum Commission, and numerous local and national organizations. Private property rights advocates were represented by the Pennsylvania Builders Association, the Pennsylvania Coal Association, the Independent Oil and Gas Association, the Pennsylvania Association of Realtors®, and the Pennsylvania Landowners' Association, among others.

Equally startling in the Boyd Theater case was the court's granting of reargument in August and October

1991 and, as a consequence, the court's reversal of its 1991 decision. It now agreed with the Philadelphia Historical Commission and others that the Environmental Rights Amendment of the state constitution "reflects a state policy." Furthermore, it concluded "that the designation of a privately-owned building as historic without the consent of the owner is not a taking under the Constitution of this Commonwealth."

### ***City of Williamsport: The Park Home Case***

Meanwhile, as these events above unfolded, a case in the Lycoming County Court of Common Pleas became especially useful in illustrating the types of arguments presented before elected officials and courts to persuade them to issue demolition permits for buildings or structures of historic significance.

*The Park Home v. City of Williamsport*, 1993, was a request for a certificate of appropriateness to demolish a Victorian period hotel constructed in 1865, and which served as a retirement home for twenty elderly women. It was considered a major contributing building to Williamsport's Millionaires Row Historic District, listed in the National Register of Historic Places.

The trustees of the Park Home, a non-profit organization, asserted that Williamsport City Council's denial of their demolition request was arbitrary and capricious because demolition permits had been issued to other applicants on several occasions. The court responded that "each circumstance is different and cannot be used as a standard." One can interpret this to mean that as long as the decision to recommend for or against a certificate of appropriateness or permit is based on findings of fact and of law, municipalities can feel reasonably secure that they are enforcing their ordinances judiciously. Another argument of the trustees, too often employed by individuals or public and private organizations, but rarely supported by evidence, was that the building was structurally

unsound. The court declared that substantial evidence from both parties contradicted that assertion.

The Park Home trustees raised the taking issue and stated that historic district ordinances are unconstitutional in that they take property for a public use or public purpose without just compensation. Their argument was based, in part, on the United Artists case, which the State Supreme Court had not yet reversed. However, the Common Pleas Court distinguished between Philadelphia's historic district ordinance and Williamsport's historic district ordinance. Authorized by the Historic District Act, Williamsport's ordinance applied "the mutuality of benefits and burdens" to all property owners, while Philadelphia's ordinance applied only to specific landmarks, in addition to which it designated historic interiors, which the Historic District Act does not.

The court held that the demolition request was based on the trustees' "best use" theory, namely that it would be the most economical and profitable choice for the property owner, an argument that influences many governing bodies to favor demolition. However, the court did not find this a compelling argument for reasons that had been fully developed in the Penn Central case. As the Common Pleas Court stated, no effort had been made to sell the building, hence the Park Home was not "precluded in its use of the property for any purpose for which it was reasonably adapted."

The Park Home also argued that the Historic District Act and the Williamsport ordinance were "void for vagueness." The court clarified this issue by explaining that statutes considered vague are those that deny due process by not giving fair notice "that their contemplated activity may be unlawful, and [by not setting] reasonably clear guidelines." In effect, the court found the local ordinance adequate and reasonable, and rejected this argument as well.

A less common argument employed by some applicants asserts that

the historic district ordinance should not apply to them since the ordinance was enacted after they had established their residence or business in the area designated as a historic district. The Park Home accused the City of Williamsport of such dereliction in violation of the prohibition against retroactive laws. Since the ordinance did not interfere with the Park Home's mission, the court found that the ordinance did not "eradicate the Park Home's rights."

The Park Home finally attempted to reverse city council's denial of its demolition request by filing a Local Agency Law Appeal. In response to the appeal, Judge Clinton W. Smith directed Williamsport City Council to make a full and complete record of its proceedings, and render a decision containing written findings of facts and reasons upon which city council relied in denying a demolition permit. City council complied and the case proceeded to a new hearing. The city's case could have proven to be the proverbial Achilles' heel. Typically it is on procedural grounds that historic preservation cases are overturned by the courts. However, the Park Home did not initially lodge a complaint on procedural grounds, and the court dismissed this issue under the new hearing. In conclusion, the City of Williamsport's arguments for denying the Park Home a demolition permit were constructed, once directed to do so by the court, on a sound foundation of findings of fact and attention to procedural and due process detail. In addition, the city called on various experts to substantiate its various claims that preservation of the building was in the public interest and countered those made by the Park Home.

### ***City of Pittsburgh: The Weinberg Case***

The Pittsburgh Historic Review Commission denied a certificate of appropriateness to Alvin and Shirley Weinberg for the demolition of a two-and-one-half story frame house known as the Howe-Childs Gateway House, a former gatehouse to the Benedum

Mansion. The building, constructed about 1860 in the Gothic Revival style, was added to the Pittsburgh Register of Historic Places in 1986. On the basis that the cost of rehabilitating the property would exceed its fair market value, the Weinbergs sought a demolition permit for the property. The city rejected their argument to the commission that rehabilitating a severely dilapidated house would be a hardship. The commission based its reasoning on the fact that the Weinbergs were aware that the building had been designated historic, knew the consequences of the designation and, lastly, were aware of the poor condition of the building before purchasing it. The couple also argued that because of the condition of the house it would be impracticable or impossible to sell it. Alvin and Shirley Weinberg appealed the city's decision to the Allegheny Court of Common Pleas, which overturned the city's decision. The city then appealed the Court of Common Pleas decision to the Commonwealth Court, which affirmed the lower court. Pittsburgh continued the appeal process to the Pennsylvania Supreme Court. On May 21, 1996, the Pennsylvania Supreme Court, Western District, delivered the opinion:

*...we find that Appellees [the Weinbergs] failed to demonstrate that they could not make any economic use of their property, we agree with the [Pittsburgh Historic] Commission's decision to deny permission to demolish the structure, and therefore, reverse the Order of the Commonwealth Court.*

In conclusion, we see that the Penn Central rationale was used by the Supreme Court of Pennsylvania, in that the historic property could offer a reasonable rate of return and that the property was economically viable. It may not have returned the highest investment expectation the owners wished, but the Pittsburgh Historic Commission's decision did not prevent them from a reasonable return on their investment. On a procedural note, the Pittsburgh Historic

Commission did not maintain a transcript of the initial Weinberg Commission meeting and, as we saw in the Park Home case, the trial court similarly remanded the case back to the city for the making of a record. As all BHARs and historic commissions are aware that their decision to deny a certificate of appropriateness for a demolition may be appealed, it would behoove them to arrange for a careful record of the proceedings of a meeting when an application of this nature is to be deliberated.

### **Boards of Historical Architectural Review and Historical Commissions: The Quasi-Judicial Nature of Their Functions**

The duties and responsibilities of Boards of Historical and Architectural Review (BHARs) are challenging and require of the members an unusual dedication, reaching beyond that expected of the average volunteer. Membership on a BHAR or a historic commission should not be taken lightly. Not only must the members of a BHAR possess the professional credentials and expertise required by the state enabling law, and, if applicable, those of the Certified Local Government Program, but they must comport themselves with the utmost decorum and fairness.

Although all BHARs in Pennsylvania have an advisory function (some historical commissions, for example, Philadelphia and Pittsburgh, have broader powers), all have quasi-judicial responsibilities. This term signifies that boards and commissions are required "to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official actions, and to exercise discretion of a judicial nature." (*Black's Law Dictionary*, Fifth Edition, 1979)

BHAR or commission meetings need not be quite as formal as courts of law, but meetings must be held according to generally accepted rules of order.

The chairman must be in charge of the meeting, and the members must follow the direction and procedures of the chairman. Complaints by both applicants and board members regarding the length of meetings are due, not usually to an excessively burdensome agenda, but to haphazardly conducted meetings in which the chair has relinquished control.

BHAR and commission members must be well informed about the historical and architectural significance of the district in which property owners will be bringing forth requests for certificates of appropriateness. It is incumbent on each member to be knowledgeable in disciplines, which fall under the wide umbrella called historic preservation. No board or commission member can make, in good conscience, recommendations regarding project proposals to applicants unless he or she has working knowledge of historical architecture, historic rehabilitation, American history, and architectural design. In addition, the board and commission *must* be clear as to the objective or purpose of the state enabling legislation under which a historic district ordinance is authorized, whether it is the Historic District Act or the Municipalities Planning Code. Members will then be able to ascertain how the project under review will affect the historic district.

The Historic District Act was enacted by the general assembly:

*[f]or the purpose of protecting those historical areas . . . which have a distinctive character recalling the rich architectural heritage of Pennsylvania. . .*

This does not mean that historic districts must maintain museum-like environments, frozen in a historical period. Nor does it mean that the retention of architectural details and historic environments should be disregarded. Property owners have the responsibility of complying with the historic district ordinance, and the municipality has the responsibility of implementing the ordinance through



*The Park Home in Williamsport, Lycoming County, is a contributing resource to the Millionaires Row Historic District, protected and regulated by a municipal historic district ordinance. PHMC file photo.*

its staff and BHAR. All need to reach some agreement as to the degree of historic character to be preserved in the historic district. Consideration should be given to the demographic profile of the historic district because the particulars of that profile will indicate the extent to which property owners will be willing and/or able to cooperate with the ordinance. Know your community! Another consideration is the physical characteristics of the historic district; for example, are

the buildings large and ornate, are they detached or attached, are they frame, brick, or stone? If, for instance, there is a preponderance of absentee landlords, low-income households, or elderly homeowners, and the buildings in question have high maintenance costs, property owners even with the best of intentions may not be able to undertake essential repairs and maintenance, as compared to a neighborhood where the buildings are more modest in size.

Is the district a mixture of residential and commercial properties, or is it composed primarily of commercial buildings? The financial ability of property owners, their willingness to comply with the requirements of the ordinance, and the degree to which a consensus has been reached as to the historic character of the area to be preserved will determine the success or failure of preserving the historic district.

## Part VI *The Historic Preservation Plan*

In haste to save a threatened historic landmark, or in the process of garnering support for the passage of a historic preservation ordinance, there is the tendency either to not consider a historic preservation plan or to delay developing one. In fact, the plan may be put off indefinitely with the consequence that the community's preservation objectives, goals, and tasks become confused or lost entirely. Another common consequence is that efforts being expended for historic preservation will not be tied to or will be incompatible with the larger goals and objectives of the municipality. Ideally, the historic preservation plan should be incorporated into the community's comprehensive plan.

### **What Constitutes a Historic Preservation Plan?**

The importance of a historic preservation plan cannot be overstated. This is borne out by the addition of a historic preservation plan component requirement in county and municipal plans in the Municipalities Planning Code, Article III § 301 (7) which states, "in addition to any other requirements of this act, a county comprehensive plan shall identify a plan for historic preservation."

A historic preservation plan requires an assessment of the present status of the community's historic resources, knowledge of past historic preservation efforts, and a list of goals and objectives. In observing Boards of Historical Architectural Review's deliberations and reviewing the minutes of these meetings, it is clear that some boards are not interpreting the criteria of the historic district ordinance within a larger historic preservation framework. They inadvertently sabotage their efforts to preserve the built heritage by being too lax, too severe, or inconsistent in their reviews. A historic preservation plan helps maintain both a focus and a vision for board members, as well as community residents.

A municipality needs to maintain an inventory of its historic and archaeological resources—and it also needs to keep it current. This inventory helps a community understand and define its historic character. Inclusion of an economic development component in the historic preservation plan—the potential effects of historic preservation strategies on the economic vitality of the community—will acknowledge their interconnection.

Taking advantage of historic preservation incentives available at the national, state, and local governmental levels, including grants, investment rehabilitation tax credits, low-interest loans, and local tax abatements, will contribute considerably to the success and acceptance of preserving historic buildings in the community.

Relating local historic preservation efforts to state and national programs will provide a broader perspective, and the identification of national, state and local historic preservation organizations and government agencies as resources is useful.

The classic journalistic questions—Who? What? When? Where? Why?—are applicable to the historic preservation plan. Who will take the responsibility to implement the plan? What is historic? When will it be done? Where are the historic resources located? Why should it be undertaken? All need to be answered. For an outline of the essential elements of a historic preservation plan, refer to the appendices.

### **Public Education and Public Relations**

In their enthusiasm to protect threatened historic landmarks and districts, preservation advocates sometimes forget the groundwork required for the acceptance of historic district ordinances. What they may personally be willing to do to repair or rehabilitate older buildings may not be the same as others are willing or able to do.

While there is a strong association between historic district designation and economic benefits, historic preservationists must not to forget that the appreciation and enjoyment of historic environments is a learned interest and not necessarily an intrinsic one.

You need to develop a long-term educational strategy to promulgate historic preservation values. Historic survey results are an ideal resource for preparing self-guided tour booklets, house tours, ideas for newspaper articles, "coffee table" books on the architecture and history of a community, and posters of a community's historic landmarks, among others. In addition, the local school district could incorporate a historic preservation curriculum for elementary and secondary school grades. The Reading School District's social studies department did so several years ago. Mercersburg, Franklin County, recently published *A Historic Architecture Coloring Book*, accompanied by a study guide for teachers, funded, in part, by a Certified Local Government grant. The publication of design guidelines, BHAR brochures (explaining the purpose of the historic district and the responsibilities of property owners), old house fairs, the use of cable television public access channels, and even sports events like the City of Reading's former Historic Reading Run, a six-mile run through the city's historic neighborhoods, can help promote an appreciation of a community's historic buildings. Public lectures about the history of the community and oral history projects by a local library or historical society can build an appreciation for the past and link it to the present for future generations.

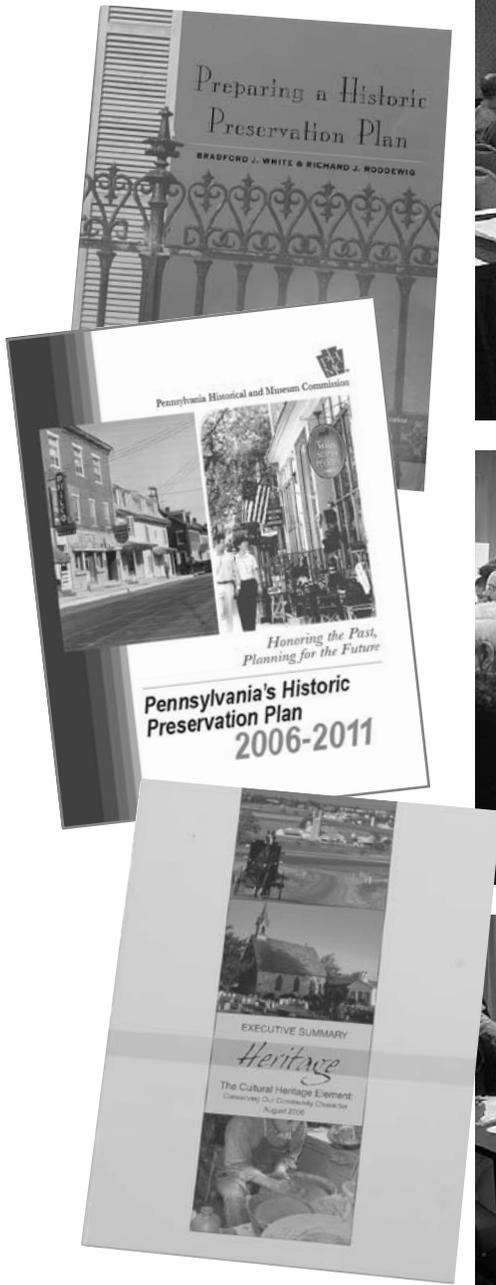
A locally designated historic district protected by ordinance will affect many in the community other than property owners and residents, including contractors, real estate brokers and agents, municipal employees, the print and electronic media, and even the

local magistrates/district justices. These individuals and many others need to understand the value and the importance of historic environments and support the goals and objectives of historic preservationists. When the time is ideal for introducing the historic district ordinance to the township supervisors, or to the borough or city council, municipal officials need to know there is a broad constituency

supportive of your efforts. The ordinance will be less likely seen as representing the interests of a specific group because you will have linked historic preservation and the ordinance to the welfare of the community as a whole.

When the governing body holds a hearing to consider public opinion, there may be individuals with a spectrum of opinions who question or even argue against the enactment of the or-

dinance. Too often, there is a tendency to dismiss those who question or oppose our values. In fact, they may have valid concerns that should be fully considered. Overly restrictive ordinances may backfire by creating conflict and controversy. Everyone for or against historic preservation regulations deserves an opportunity to help shape the ordinance for wider acceptance.



Participants meet at the Lancaster Planning Commission's public cultural heritage forums.

## Part VII *The National Register of Historic Places*

Established by the National Historic Preservation Act of 1966, the National Register of Historic Places is the official list of the nation's cultural resources deemed worthy of preservation. The Pennsylvania Historical and Museum Commission is charged with administering the National Register program for Pennsylvania. The agency is responsible for reviewing nominations for historic districts, individual buildings, structures, objects, and sites prior to their submission to the National Park Service, U.S. Department of the Interior.

### Direct and Indirect Benefits

There are direct and indirect benefits associated with listing properties and districts in the National Register. These can be considered economic or cultural. On the economic side are direct benefits through eligibility for federal rehabilitation investment tax credits, and in the potentially increased marketability of historic properties. Regarding the cultural factor, National Register recognition can enhance a community's self-esteem by awakening interest in and stimulating appreciation of local heritage. Equally, if not more important, is the review process initiated by federally funded or permitted activities for their effects on eligible or listed National Register properties. The review, and the subsequent recommendations, conducted by the Bureau for Historic Preservation (BHP) and by the Advisory Council on Historic Preservation provide an opportunity, when the effects are adverse, to bring the parties to the table for negotiations. (Refer to section 106 of the National Historic Preservation Act of 1966, as amended, for a full explanation of the review process, or summaries and explanations of Section 106 available from the Bureau for Historic Preservation.)

### Inclusion in the National Register

The National Register of Historic Places considers a district as a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. For example, a district may reflect one principal activity, seen in a mill, a farmstead, or a coal patch town, or it may encompass several interrelated activities, as evidenced by an area that includes industrial, residential, or commercial buildings, sites, structures, or objects. A district must be important for historical, architectural, archaeological, engineering, or cultural values.

Examples of historic districts include business districts, canal systems, groups of habitation sites, college campuses, estates and farms with large acreage or numerous buildings, industrial complexes, irrigation systems, residential areas, rural villages, transportation networks, and rural historic districts.

In addition to utilizing the National Park Service definition as a basis for its reviews and recommendations, the Bureau for Historic Preservation considers the following characteristics of a historic district:

A. The area should possess a high degree of historic and architectural in-

tegrity with a minimum of non-historic buildings and features, such as parking lots.

B. The area should possess an implied cohesiveness through characteristics of architectural style, such as height, proportion, scale, rhythm, and detail.

C. The area should possess a particular and identifiable character, or a special historical or aesthetic atmosphere that distinguishes it from the surrounding area.

D. The area should be readily definable by physical factors (railroads, highways), topographical boundaries (hillsides, streams), and historical factors (boundaries of original settlements, concentrations of historic buildings and sites).

E. The area should be significant in the historical or cultural life of the locality, the state, or the nation.

The district need not represent a particular architectural style, and may, in fact, contain a wide variety of styles, providing they are in a harmonious relationship.

### National Register Historic Districts in Pennsylvania

For an updated list of historic districts in Pennsylvania that have been added to the National Register of Historic Places, contact the Bureau for Historic Preservation or visit [www.arch.state.pa.us](http://www.arch.state.pa.us).



## Part VIII Preservation Tax Incentives for Historic Buildings

Before we launch into a brief introduction of the Internal Revenue Code's tax incentives for historic buildings, prepare yourself to encounter the term *certified* used in varying contexts. You will read about a *certified* historic structure, a *certified* rehabilitation, and a *certified* historic district. The certification process is one through which an application is submitted to the National Park Service through the PHMC's Bureau for Historic Preservation. Some or all of these certifications need to be in place for a property owner to benefit from the 20 percent investment rehabilitation tax credits for his or her historic rehabilitation project.

A *certified historic structure* is a structure listed individually in the National Register of Historic Places, or a contributing structure in a district listed in the National Register, or a contributing structure in a district *certified* by the National Park Service as substantially meeting National Register criteria. Note that this latter certification enables property owners to benefit from the income tax incentives without needing to have the district listed in the National Register. A *certified rehabilitation* is any rehabilitation of a certified historic structure that has been approved as meeting the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*.

### What Kinds of Incentives are Available?

Since its inception in 1978, the Rehabilitation Investment Tax Credit (RITC) program is one of the most widely used incentive programs in Pennsylvania to promote the preservation of historic resources. There are two credits, a 20 percent credit for historic buildings and a 10 percent credit for non-historic, non-residential buildings built before 1936. Each



*The Centenary Building (above), built in 1875, in Carlisle, Cumberland County.*  
*At right, the same building after rehabilitation.*  
*Photo by Bonnie Wilkinson Mark.*



credit is based on the total amount of rehabilitation expenses. The 20 percent tax credit is available to owners of, and certain long-term leases of, income producing (depreciable) properties that are listed in the National Register of Historic Places or contribute to a National Register Historic District. The 20 percent tax credit is also available to owners of income-producing properties that are not in a National Register district but contribute to a municipal historic district certified by the National Park Service for RITC purposes. Expenses incurred during the rehabilitation of a historic building must exceed the value of the building to be eligible for the credit. A tax credit **cannot** be taken on a private residence because a dwelling is not considered a depreciable property. However, the credit can be used on rental residential properties.

The 10 percent tax credit is not available for rehabilitations of certified historic structures, and so a property owner should ascertain whether a building proposed for the tax incentives in a historic district is a contrib-

uting historic resource. If the building is not a contributing historic resource, there is no other rehabilitation review requirement needed by the Bureau for Historic Preservation or the National Park Service. This may puzzle some property owners whose buildings are located in a historic district regulated by a local government historic district ordinance, which requires them to provide plans and specifications to a Board of Historical Architectural Review before they can make exterior alterations. Why, they ask, should they conform to the requirements of a local historic ordinance if, in fact, their building is not considered historic by the federal government? It should be kept in mind that the Tax Reform Act of 1986 is a federal law while the historic district ordinance is enforced under local government authority, and the one cannot abrogate the other.

Property owners who apply for the federal income tax credit sometimes assume that because their rehabilitation plans have been approved by a Board of Historical Architectural Review or a historical commission, their tax certification application will



*The Follmer Clogg & Company Umbrella Factory on West King Street in Lancaster, Lancaster County, before and after its rehabilitation. Photo by J. Wylie Bradley.*

be automatically approved by the PHMC's Bureau for Historic Preservation or the National Park Service. This is not correct. Local government approval of a historic preservation project is not a substitute for Bureau for Historic Preservation or National Park Service approval.

Interested parties should consult their accountant and/or tax advisor to be sure they can utilize the credit as new regulations were added to the Tax Reform Act of 1986. These regulations include Passive Activity Rules and Alternative Minimum Tax and could severely limit the ability of a historic property owner to take advantage of the credit. For more information on this program, please contact the Bureau for Historic Preservation at (717) 787-0772.

## How to Obtain the Necessary Certifications

Contact the Pennsylvania Historical and Museum Commission's Bureau for Historic Preservation to obtain the Tax Certification Application and information on complying with procedural requirements for certification, and to inquire about the National Register status of the structure.

## Which Expenditures Qualify?

"Rehabilitation expenditures must be capital in nature and depreciable as real property to qualify for a credit. This includes new plumbing, me-

chanical, and electrical systems, sprinklers, life safety systems, elevators, stair towers, brick and façade cleaning, and any other work including cosmetic changes to the structural components of the buildings. Architect's fees and construction period interest and taxes are also allowable as part of the qualified rehabilitation expenditures. Acquisition, site work such as landscaping, parking lots, sidewalks, and building enlargement costs do not qualify. Furniture, appliances, and other personal property items do not qualify." From the Preservation

Information Series of the National Trust for Historic Preservation, "A Guide to Tax-Advantaged Rehabilitation" (Boyle, Ginsburg, Oldham, and Rypkema, 1994).

**WARNING:** If you begin the rehabilitation project before conferring with the Bureau for Historic Preservation or a reliable consultant, you may forfeit the benefits of the tax credit due to inappropriate filing or rehabilitation procedures. Don't jeopardize the opportunity to benefit from these tax incentives!

## Part IX Historic Preservation Grants



View of the lobby of the Warner Theater, Erie. PHMC file photo.



**Before:** Regent-Rennoc Court, Philadelphia, 1985.  
Photo by Clio Group.



**After:** Regent-Rennoc Court, Philadelphia, 1989.  
Photo by Eric Mitchell.

### Certified Local Government Grants

The National Historic Preservation Act of 1966 established the Historic Preservation Fund (HPF). State Historic Preservation Officers are required to award 10 percent of their annual Historic Preservation Fund monies to CLGs. Local governments meeting the Certified Local Government certification may apply for CLG grants, which are available annually on a competitive basis. Contact the CLG coordinator at the Bureau for Historic Preservation for further information and assistance.

### History and Museum Grant Program—Preservation Project Grant

Under the PHMC's state grant program, there is a category for historic preservation projects and activities. Grants are available annually on a competitive basis to local governments and nonprofit organizations in Penn-

sylvania that have Internal Revenue Service tax-exempt status (501)(c)(3), and have been incorporated for a minimum of two years. Historic preservation activities include survey, planning, National Register nomination applications, historic structures reports, design guidelines, historic tour brochures, and projects limited only by the applicant's imagination. However, no "bricks and mortar" projects are funded under these grants. For information, visit the PHMC Web site at [www.phmc.state.pa.us](http://www.phmc.state.pa.us) and click on "PHMC Grants," or contact the coordinator of the History and Museum Grant Program, Bureau for Historic Preservation.

### The Keystone Historic Preservation Grant Program

Keystone Historic Preservation grants are available annually on a competitive basis to non-profit organizations and local governments that own

or support a publicly accessible historic property listed in, or eligible for listing in, the National Register of Historic Places, or who own or support a contributing property in a National Register Historic District. The organization must have been in existence a minimum of five years and be located in Pennsylvania.

Eligible activities include preserving or restoring historic properties to the Secretary of the Interior's *Standards for the Treatment of Historic Properties*. The organization or institution may apply for an award up to \$100,000. There is a 50/50 cash match requirement. Information and applications are available on the PHMC's Web site at [www.phmc.state.pa.us](http://www.phmc.state.pa.us), or applicants may contact the Bureau for Historic Preservation's Division of Grants and Planning.

## **The Historic District Act of June 13, 1961, P. L. 282, No. 167 as amended, 53 P.S. § 8001, et. seq.**

### *An Act*

Authorizing counties, cities, boroughs, incorporated towns and townships to create historic districts within their geographic boundaries providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

*Section 1.* The term “governing body” as used in this act, shall mean the board of commissioners of any county, the council of any city, except cities of the first or second class, the council of any borough or incorporated town, the board of commissioners of any township of the first class and the board of supervisors of any township of the second class.

The term “executive authority,” as used in this act, shall mean the chairman of the board of commissioners of any county, the mayor of any city, except cities of the first and second class, the president of council of any borough or incorporated town, the president of the board of commissioners of any township of the first class and the chairman of the board of supervisors of any township of the second class. (As amended 1980 P. L.257, No. 74, (53 P.S. § 8001, et seq.).

*Section 2.* For the purpose of protecting those historical areas within our great Commonwealth, which have a distinctive character recalling the rich architectural and historical heritage of Pennsylvania, and of making

them a source of inspiration to our people by awakening interest in our historic past, and to promote the general welfare, education, and culture of the communities in which these distinctive historical areas are located, all counties, cities, except cities of the first and second class, boroughs, incorporated towns and townships, are hereby authorized to create and define, by ordinance, a historical district or districts within the geographic limits of such political subdivisions. No such ordinance shall take effect until the Pennsylvania Historical and Museum Commission has been notified, in writing, of the ordinance and has certified, by resolution, to the historical significance of the district or districts within the limits defined in the ordinance, which resolution shall be transmitted to the executive authority of the political subdivision. (P.L. 282, No. 167, as amended, 53 P.S. § 8001, et. seq.).

*Section 3.* The governing body of the political subdivision is authorized to appoint a Board of Historical Architectural Review upon receipt of the certifying resolution of the Pennsylvania Historical and Museum Commission. The board shall be composed of not less than five members. One member of the board shall be a registered architect, one member shall be a licensed real estate broker, one member shall be a building inspector, and the remaining members shall be persons with knowledge of and interest in the preservation of historic districts. A majority of the board shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the board. The board shall give counsel to the governing body of the county, city, borough, town, or township, regarding the advisability of issuing any certificate which the governing body may issue pursuant to this act. (As amended 1963 P.L. 27, No. 24.)

*Section 4. (a)* Any governing body shall have the power and duty to certify

to the appropriateness of the erection, reconstruction, alteration, restoration, demolition or razing of any building, in whole or in part, within the historic district or districts within the political subdivision. Any agency charged by law or by local ordinance with the issuance of permits for the erection, demolition or alteration of buildings within the historic district shall issue no permit for any such building changes until a certificate of appropriateness has been received from the governing body.

*(b)* Any governing body in determining whether or not to certify to the appropriateness of the erection, reconstruction, alteration, restoration, demolition or razing of a building, in whole or in part, shall consider the effect which the proposed change will have upon the general historic and architectural nature of the district. The governing body shall pass upon the appropriateness of exterior architectural features which can be seen from a public street or way, only, and shall consider the general design, arrangement, texture, material and color of the building or structure and the relation of such factors to similar features of buildings and structures in the district. The governing body shall not consider any matters not pertinent to the preservation of the historic aspect and nature of the district. Upon giving approval, the governing body shall issue a certificate of appropriateness authorizing a permit for the erection, reconstruction, demolition, or razing of a building in whole or in part. Disapproval of the governing body shall be in writing, giving reasons therefore, and a copy thereof shall be given to the applicant, to the agency issuing permits, and to the Pennsylvania Historical and Museum Commission.

*(c)* Any person applying for a building permit within a historic district shall be given notice of the meeting of the Board of Historical Architectural Review which is to counsel the govern-

ing body, and of the meeting of the governing body which is to consider the granting of a certificate of appropriateness for the said permit, and may appear before the said meetings to explain his reasons therefore. In the event of a failure to recommend, the board, and, in the event of its disapproval, the governing body shall also indicate what changes in his plans and specifications would meet its conditions for protecting the distinctive historical character of the historic district.

(d) Any person aggrieved by failure of the agency charged by law or by local ordinance to issue a permit for such building changes by reason of the disapproval of the governing body may appeal therefore in the same manner as appeals from decisions of the agency charged by law or local ordinance with the issuance of permits for such building changes.

*Section 5.* The agency charged by law or by local ordinance with the issuance of permits for the erection, demolition or alteration of buildings within the historic district shall have power to institute any proceedings, at law or in equity, necessary for the enforcement of this act or of any ordinance adopted pursuant thereto, in the same manner as in its enforcement of other building, zoning or planning legislation or regulations.

*Section 6.* The provisions of this act are severable and, if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act.

It is hereby declared to be the legislative intent this act would have been adopted had such unconstitutional provisions not been included herein. The provisions of this act shall not be construed to limit the powers and duties assigned to the Pennsylvania Historical and Museum Commission.

*Section 7.* This act shall take effect immediately.

## **PHMC Policy for Determining Historical Significance of Local Historic Districts and Boundary Justification Pursuant to the Pennsylvania Historic District Act (Act 167)**

Whereas, to protect historic areas within the Commonwealth, the Historic District Act (Act 167) authorizes all Pennsylvania municipalities—with the exception of cities of the first and second class—to create and define, by ordinance, one or more historic districts; and

Whereas, no such municipal ordinance shall take effect until the Pennsylvania Historical and Museum Commission (PHMC) has been notified, in writing, of the ordinance and has certified, by resolution, to the historical significance of the district or districts within the limits defined in the ordinance; and

Whereas, Act 167 does not specify any criteria for historical significance; and

Whereas, the History Code (Title 37), the PHMC's rule-making authority, authorizes the PHMC to promulgate policy and regulations necessary for the implementation of its powers and duties;

Now, therefore, be it resolved that to comply with the intent of Act 167, the PHMC will use established guidelines for determining historical significance for local historic districts and boundary justifications. Each application for certification will be evaluated on a case-by-case basis pursuant to the following definitions and criteria:

*District Definition:* A local historic district is an area, within a political subdivision, that possesses a group of buildings, monuments, bridges, cemeteries, parks, designed landscapes, or other constructed or naturally-occurring features that have been recognized for their local historical or cultural significance either by the municipality or by the Pennsylvania Historical and Museum Commission. Generally, the Pennsylvania Historical and Museum Commission will certify that a pro-

posed local historic district is historically significant if certification would promote the goals and objectives of the municipality's comprehensive plan, and if the area meets the criteria described below.

*Criteria:* PHMC's evaluation of whether a proposed local historic district is historically significant will generally include (but not be limited to):

- consideration of whether the proposed district possesses significant character, interest, or value associated with the development, heritage, or cultural characteristics of the municipality and is associated with a significant period of time in its history;

- is representative of the built environment of an era of history as characterized by distinctive architectural styles;

- is the site or location of a notable local event considered to have had a significant effect on the municipality;

- is an example of the cultural, political, economic, social, or historical heritage of the community;

- has achieved significance within the past fifty years or is of exceptional importance to the municipality; and/or

- possesses a unique location or physical characteristics that represent an established and familiar visual feature of a neighborhood within the municipality.

*Boundary Justification:* PHMC's evaluation of a proposed local historic district's boundary will generally include (but not be limited to) consideration of whether the boundary:

- is based on a municipality's stated goals and objectives of their historic preservation plan and addresses the preservation of historic areas and resources;

- is based on one or more periods of historical development;

- acts as a buffer to protect the integrity and character of the historic district;

- and/or includes a greater proportion of contributing over noncontributing properties.

## Steps to Establish a Historic District Ordinance Authorized by the Historic District Act

Act of June 13, 1961, P.L. 282, No. 167, as amended, 53 P.S. § 8001, et. seq.

To apply for historic district certification under the Historic District Act, the following checklist with accompanying materials\* must be completed and submitted to the Pennsylvania Histori-

cal and Museum Commission's Bureau for Historic Preservation (BHP) 45 days prior to the next regularly scheduled meeting of the Pennsylvania Historical and Museum Commission (PHMC).

### ✓ Checklist

Complete a **Pennsylvania Historic Resource Survey Form (HRSF)** for the proposed district.\*

When completing the HRSF, refer to the criteria outlined in the *PHMC Policy for Determining Historical Significance of Local Historic Districts and Boundary Justification Pursuant to the Pennsylvania Historic District Act* to develop the Historical Narrative section.

Although not necessary for PHMC certification, you may also wish to have the district evaluated for National Register eligibility. If so, please follow the Bureau for Historic Preservation's *How to Complete the Pennsylvania Historic Resource Survey Form* when developing the Historical Narrative section in addition to the Historic District Act Policy.

**The completed HRSF must also include the following attachments:**

A **parcel map** clearly showing the boundaries of the proposed district. The map must include the name of the proposed district, street names, and an arrow indicating "North."

**Current photographs** of the district's streetscapes, capturing primary and secondary facades of buildings, in addition to significant outbuildings and secondary buildings. The number of images necessary will vary depending upon the size of the proposed district; include

an appropriate number of images that comprehensively represents the district as it appears today. Photographs must be keyed to a parcel map (previous attachment described) with the direction of the camera's view indicated. Digital photographs are preferred. The size of each image must be 1600 x 1200 pixels at 300 ppi (pixels per inch) or larger. It is recommended that digital images be saved in 8-bit (or larger) color format, which provides maximum detail even when printed in black-and-white. Two 4" x 6" photographs may be printed on 8½" x 11" sheets. Please label each photograph with the name of the proposed district, county, municipality, and photograph number as it appears on the parcel map. If digital photographs are taken, please submit a CD containing TIFF or JPEG images to the Bureau for Historic Preservation.

A **boundary justification** for the proposed district (refer to the *PHMC Policy for Determining Historical Significance of Local Historic Districts and Boundary Justification Pursuant to the Pennsylvania Historic District Act*). An inventory, or list, of the properties within the proposed district may need to be completed to justify the boundary. The inventory should at a minimum include: the address and street name, the construction date or period, and whether the property contributes to the historic character of the proposed district.

\* If the proposed local district is already located within a district listed in the National Register of Historic Places, indicate the name of the National Register Historic District.

Submit a parcel map showing the boundaries of the National Register listed district as well as the boundaries for the proposed local district. If the National Register historic district was listed more than 5 years ago, provide current photographs and key the images to a map. A HRSF need not be submitted.

Provide a copy of the applicable sections of the municipality's comprehensive and/or historic preservation plan which recognizes and addresses the historical or cultural significance of the proposed district.

Provide a draft of the historic district ordinance. A copy of the draft ordinance should be submitted to the Bureau for Historic Preservation for staff review prior to final approval to the municipality's governing body (this should be accomplished in advance of the 45 days prior to the PHMC meeting to permit time for staff review). Contact the BHP to request a model historic district ordinance.

Consult with BHP staff concerning strategies to gain local support for the proposed historic district ordinance.

Follow appropriate municipal regulations regarding enactment and passage of the ordinance, for example, schedule a public hearing to allow for public comment and consideration of the proposed historic district ordinance.

The local governing body adopts the historic district ordinance. A certified (signed and dated) copy of the ordinance must be submitted to the PHMC's Bureau for Historic Preservation.

A letter addressed to Director, Bureau for Historic Preservation, must be submitted by the chief elected official of the local government/municipality requesting that the Pennsylvania Historical and Museum Commission certify the historical significance of the proposed historic district. This letter must be accompanied by all materials described in the checklist.

The Pennsylvania Historical and Museum Commission will review all submitted materials at a regularly scheduled meeting. The PHMC will notify the local government of its official action. The historic district ordinance cannot be enforced until the date of certification by resolution of the Pennsylvania Historical and Museum Commission.

For further information, technical assistance, and/or to schedule a site visit, contact:

**Pennsylvania Historical and  
Museum Commission  
Bureau for Historic Preservation  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120-0093  
(717) 787-0771**

# Historic Districts in Pennsylvania

Established under the Historic District Act of 1961, including historic districts established under home rule for the cities of Philadelphia, Pittsburgh and Scranton.

*\*Indicates there is a corresponding National Register Historic District, although the name and district boundaries may be different. Please contact the Bureau for Historic Preservation or your municipal office to confirm district boundaries.*

*Municipalities appearing in bold are members of the National Park Service's Certified Local Government Program.*



*Newtown has preserved its small town appeal in densely populated Bucks County. Photo by David Graham.*

1 Adams	<b>Gettysburg Borough*</b> Boundary Extension Boundary Extension	Gettysburg	06/13/72 02/14/90 02/16/00
2 Adams	Cumberland Township*	Cumberland Township	08/10/83
3 Adams	Fairfield Borough*	Fairfield Historic District	06/16/04
4 Adams	Straban Township*	Straban Township Historic District Ordinance Repealed 2001	08/10/83
5 Allegheny	Homestead Borough*	Homestead Historic District	02/21/01
6 Allegheny	Moon Township	Mooncrest Historic District	03/16/05
7 Allegheny	Munhall Borough*	Homestead Historic District	02/21/01
8 Allegheny	Sewickley Borough	Sewickley Historic District Boundary Extension-Beaver Streets Old Thorn Farm-Broad Street	07/11/84 12/04/85 06/03/87
9 Allegheny	Sewickley Heights Borough	Sewickley Heights Historic District	05/09/90
10 Allegheny	West Homestead Borough*	Homestead Historic District	02/21/01
11 Beaver	<b>Ambridge Borough*</b>	Ambridge Historic District	03/08/72
12 Bedford	Bedford Borough*	Bedford	06/05/85
13 Berks	<b>Oley Township*</b>	Spangsville Oley Township Historic District	10/09/91 06/15/05
14 Berks	<b>Reading City*</b>	Callowhill Historic District Prince Street Historic District Centre Park Historic District Penn's Common Historic District	12/13/7 06/16/82 01/12/83 06/15/05
15 Berks	Marion Township*	Charming Forge	09/19/01
16 Blair	<b>Hollidaysburg Borough*</b>	Hollidaysburg	10/11/89
17 Bucks	Doylestown Borough* Boundary Extension	Doylestown Borough H.D.	11/19/70 6/15/05
18 Bucks	Doylestown Township	Edison	12/17/97
19 Bucks	<b>Buckingham Township*</b>	Spring Valley	03/09/83
20 Bucks	Falls Township*	Village of Fallsington	12/05/63
21 Bucks	<b>Bristol Borough*</b> Boundary Extension	Historic Radcliffe Street	02/15/68 06/14/89
22 Bucks	<b>Chalfont Borough*</b>	Chalfont Borough	02/21/96
23 Bucks	Hulmeville Borough*	Hulmeville Historic District	05/12/86
24 Bucks	Langhorne Borough*	Langhorne Borough	06/18/75
25 Bucks	<b>Lower Makefield Township*</b>	Village of Edgewood	06/11/80
26 Bucks	New Hope Borough* Boundary Extension	New Hope Historic District	05/13/70 09/24/86
27 Bucks	<b>Newtown Borough*</b> Boundary Extension	Newtown Historic District	04/24/69 07/11/85
28 Bucks	Newtown Township*	Sycamore Street Historic District	07/11/85
29 Bucks	Solebury Township*	Carversville Historic District Phillips Mill Historic District	03/21/79 08/01/84
30 Bucks	<b>Upper Makefield Township*</b>	Village of Brownsburg Hist. Dist. Village of Dolington Hist. Dist.	09/79 09/09/81
31 Bucks	Yardley Borough*	Yardley Historic District	05/01/85
32 Butler	Harmony Borough* Boundary Extension	Harmony	04/02/86 01/03/95
33 Cambria	Adams Township*	South Fork Fishing & Hunting Club	06/14/89
34 Centre	<b>Bellefonte Borough*</b> Boundary Extension	Bellefonte Borough	11/19/70 12/08/93
35 Centre	Millheim Borough*	Millheim Historic District	01/21/04
36 Chester	<b>Birmingham Township*</b>	Dilworthtown Historic District	10/16/69
37 Chester	Charlestown Township*	Charlestown Village	06/11/80

38	Chester	<b>East Bradford Township*</b>	East Bradford Historic District	06/14/89
39	Chester	<b>East Pikeland Township*</b>	Kimberton Historic District	04/06/88
40	Chester	<b>East Marlborough Township*</b>	Village of Unionville	09/19/77
41	Chester	Franklin Township	Kemblesville Historic District	08/21/03
42	Chester	<b>Kennett Square Borough*</b>	Kennett Square Historic District	Not an Act 167
43	Chester	<b>Phoenixville Borough*</b>	Phoenixville Historic District	07/10/91
44	Chester	<b>South Coventry Township*</b>	Coventryville Historic District	12/10/75
45	Chester	<b>Tredyffrin Township*</b>	Tredyffrin Historic District	02/21/67
46	Chester	Warwick Township*	North Warwick Historic & Archaeological District Warwick Furnace Coventryville Reading Furnace	05/21/97 05/21/97 05/21/97 05/21/97 05/21/97
47	Chester	<b>West Chester Borough*</b>	West Chester Downtown Hist. Dist. Boundary Increase	12/14/88 06/21/06
48	Chester	West Pikeland Township*	Chester Spring Historic District Anselma Mill Historic District	07/11/73 05/01/85
49	Columbia	<b>Bloomsburg Town*</b>	Bloomsburg Historic District	12/14/88
50	Cumberland	<b>Carlisle Borough*</b>	Historical Carlisle	10/01/75
51	Cumberland	Mechanicsburg Borough*	Mechanicsburg Local Hist. Dist.	03/16/05
52	Cumberland	Upper Allen Township	Rosegarden Hist. Dist.; Trout Run Hist. Dist.; Shepherdstown Hist. Dist.; Yellow Breeches Historic District	09/15/76
53	Cumberland	Shippensburg Borough*	Shippensburg	02/04/87
54	Dauphin	City of Harrisburg* Boundary Extension	Historic Harrisburg: Old Midtown and Old South Fox Ridge Old Uptown Allison Hill	09/11/74 12/10/75 03/04/83 05/08/91 05/21/97
55	Delaware	Chadds Ford Township*	Historic Overlay	10/07/86
56	Delaware	Lansdowne Borough*	Lansdowne Historic District	11/15/06
57	Delaware	Media Borough	Courthouse Square Lemon Street Providence Friends' Meeting HD of Churches	06/26/75 06/26/75 06/26/75
58	Delaware	Upland Borough	Upland Historic District	09/19/77 historic district ordinance repealed 06/1982
59	Delaware	Radnor Township*	Wayne Historic District	06/21/06
60	Delaware	<b>Ridley Park Borough*</b>	Ridley Park Borough	08/11/92
61	Franklin	<b>Mercersburg Borough*</b> Boundary Extension	Mercersburg	02/18/76 06/14/89
62	Indiana	Saltsburg Borough*	Historic Saltsburg	09/11/97
63	Lackawanna	Abington Township*	Waverly Historic District	06/16/04
64	Lancaster	Columbia Borough*	Columbia Historic District	09/25/02
65	Lancaster	<b>City of Lancaster*</b> Boundary Changes	Historic Lancaster Heritage Conservation District	12/07/67 02/16/00
66	Lancaster	Strasburg Borough*	Strasburg Historic District	11/17/70
67	Lebanon	<b>Annville Township*</b>	Annville Historic District	11/20/96
68	Lehigh	City of Allentown	Old Allentown Historic District Old Fairgrounds Historic District West Park Historic District	12/13/78 09/09/81 02/21/01
69	Lycoming	<b>City of Williamsport*</b>	Millionaires Historic District	06/09/76

70 McKean	City of Bradford*	Historic Bradford Historic District	09/17/70
71 Mercer	Mercer Borough	Mercer	02/14/73
72 Montgomery	Cheltenham Twp*	Historical LaMott Wyncote	04/09/75 02/08/89
73 Montgomery	Lower Merion Township*	Harriton H. D. Mill Creek H.D. Gladwyne (Merion Square) H.D. Ardmore Commercial Center H.D. Merion Friends H.D. Meetinghouse/General Wayne Inn H.D.	11/13/62 06/11/80 06/11/80 09/08/93 09/23/98
74 Montgomery	Lower Moreland Township	Huntingdon Valley Historic District	03/21/79
75 Montgomery	Norristown Borough*	Norristown Historic District	03/17/04
76 Montgomery	Plymouth Township* Whitemarsh Township*	Plymouth Meeting Historic District	04/22/71
77 Montgomery	North Wales Borough*	North Wales	02/16/00
78 Montgomery	Pottstown Borough*	Pottstown Boundary Extension High Street	02/04/87 12/14/94 12/14/94
79 Monroe	Stroudsburg Borough*	Stroudsburg Historic District	11/15/06
80 Montour	Danville Borough*	Danville Historic District	04/08/89
81 Northampton	Bath Borough*	Bath Historic District	02/17/99
82 Northampton	City of Bethlehem*	Historic Bethlehem South Bethlehem Conservation	12/19/61 09/29/99
83 Northampton	City of Easton*	Easton Historic District Easton historic district boundary increase	09/15/05 09/20/06
84 Pike	Milford Borough*	Milford Historic District	02/16/00
85 Schuylkill	City of Pottsville*	Historic Pottsville	03/10/82
86 Schuylkill	Tamaqua Borough*	Tamaqua Historic District	09/26/02
87 Tioga	Wellsboro Borough*	Wellsboro Historic District	05/16/01
88 Union	Lewisburg Borough*	Historic Lewisburg	10/16/69
89 Venango	City of Franklin*	Franklin Historic District	03/21/79
90 York	City of York*	Historic York Boundary Extension	11/19/70 06/19/02

## Home Rule Historic Preservation Ordinance Historic Districts

### City of Pittsburgh

Allegheny West Historic District\*  
Alpha Terrace Historic District\*  
Deushtown Historic District\*  
East Carson Street Historic District\*  
Manchester Historic District\*  
Market Square Historic District  
Murray Hill Avenue Historic District  
Oakland Civic Center Historic District  
Penn-Liberty Historic District\*  
Schenley Farms Historic District\*  
Mexican War Streets\*  
Oakland Square Historic District

### City of Philadelphia

Diamond Street Historic District  
Park Mall-Temple University's  
Campus Historic District\*  
Rittenhouse-Fitler Residential  
Historic District  
Historic Street Paving  
Thematic District  
Society Hill (and Pennsylvania  
Hospital of Washington  
Square West) Historic District\*  
Girard Estate Historic District  
League Island Park, a.k.a.  
F.D.R. Park Historic District  
Spring Garden Historic District\*  
Old City Historic District\*  
Greenbelt Knoll Historic District

### Lackawanna County

City of Scranton Historic  
Preservation Overlay  
Historic District\*

*For more complete information and guidance about Pennsylvania municipalities that protect historic districts under the Historic District Act and protect historic resources under the Municipalities Planning Code, contact the Bureau for Historic Preservation, Pennsylvania Historical and Museum Commission.*



## **Bureau for Historic Preservation Guidance for Historic Preservation Planning**

The Municipalities Planning Code, revised in 2000, includes a provision for historic preservation planning. The Pennsylvania Historical and Museum Commission's Bureau for Historic Preservation (BHP) has developed guidance for Historic Preservation Planning to provide a framework for what constitutes a comprehensive historic preservation plan.

**Purpose**—The Historic Preservation Plan provides local units of government a working document to identify historic and cultural resources in the county or municipality; to consider the issues, problems, and opportunities associated with those resources; to explore the possibility of county-wide and regional approaches to management of important resources; and to develop goals, policies, and strategies for their appropriate use, conservation, preservation, and protection that are consistent with those established for other comprehensive plan elements.

**Planning Process**—The character and historic resources of each county varies and, therefore, the process in developing a Plan for Historic Preservation will depend upon the particular needs of the county or municipality. However, there are some common steps that should be followed in the planning process:

- (A) evaluation of the county's or municipality's developmental history;
- (B) inventory of existing conditions;
- (C) assessment of current and future needs;
- (D) articulation of community goals, objectives, and strategies;

- (E) implementation of program/action plan;
- (F) identification of funding sources, tools, and methods to implement historic resources plan; and
- (G) establishment of the legal basis for historic preservation.

The planning process should be guided by public participation that provides a forum for open discussion of preservation issues. Resources for incorporating public participation in the historic preservation planning process are listed in Planning Resources.

The planning process should result in the preparation of a Historic Preservation Plan. The plan should include the results of completing items A through F. The Bureau for Historic Preservation is available to review and comment on plans throughout the planning process.

### **A. Developmental History**

A narrative of the county's or municipality's development should be prepared. Historic atlases, maps, written histories, and other similar resources should be consulted. The developmental history should address natural resources and the evolution of transportation systems with respect to the role they played in developing the county and its communities.

### **B. Inventory of Existing Conditions**

Where applicable to the county or municipality, the items listed below—numbers (1) through (4)—should be identified and inventoried. Maps are strongly recommended for inclusion in the plan to indicate the locations of these resources.

(1) National Register Listed and Eligible Properties: Any designated building, district, site, structure, or object located wholly or partially in the county or municipality that is listed in or eligible for listing in the National Register of Historic Places.

(2) Significant Historic and Cultural Resources: Any areas or any other resources that are of county-wide or local significance.

a. Residential Resources: Residential districts, neighborhoods, multi-family dwellings, individual homes, gardens, including examples of locally significant or distinctive building traditions and styles;

b. Commercial Resources: Commercial districts (crossroads, downtowns, etc.), marketplaces, and individual buildings (general stores, offices, etc.);

c. Industrial Resources: Mills, factories, industrial complexes, mines, etc., as well as locally significant industries and traditional occupations and skills;

d. Institutional Resources: Institutional districts and individual buildings (schools, military complexes, churches, etc.);

e. Transportation Resources: Roadways, bridges, pedestrian ways, footpaths and trails, railroad tracks, structures and buildings, trolleys, streetcar lines and cars or equipment, canals, waterways and landing areas, airports and airfields, gateways, etc.;

f. Rural Resources. Landscapes, farm complexes, crossroad communities, barns, etc., as well as locally significant agricultural practices and traditions; and

g. Other Historic, Archaeological, and Cultural Resources: Community landmarks (natural or built), battlegrounds, gardens, parks, views, cemeteries, burial grounds, festival locations, gathering places, etc. The inventory should also include generalized locations of any archaeological sites identified as significant by the Pennsylvania Historical and Museum Commission.

(3) Critical Areas: Identify any historic areas that are experiencing pressures related to economic decline, growth/sprawl, transportation projects, etc.

(4) Local Programs and Ordinances: Identify any existing local programs or ordinances related to management of historic and cultural resources including: Main Street/Elm Street program, local historic district ordinance, preservation component to local zoning ordinance, redevelopment authority, Heritage Park Region, etc.

The level of the inventory should be based upon the county's or municipality's needs and may be conducted through such means as windshield survey, professional or technical surveys, formal solicitation of community comment through written surveys and/or public meetings, and input from community groups (such as task forces; historical, archaeological and cultural societies; school groups; etc.).

The Bureau for Historic Preservation maintains a Cultural Resources Geographic Information System (CRGIS), a map-based inventory of historic and archaeological sites and surveys. Currently there are approximately 20,000 archaeological sites and 113,000 historic properties in the Cultural Resources Geographic Information System. The CRGIS should be consulted to provide a framework for future survey needs. Web access to all of the historic resource data is available to the public. Access to archaeological site locations and detailed site information is restricted and password-protected and will be granted to qualified individuals on a "need to know" basis. CRGIS can be accessed by the link provided in the Planning Resources section.

Once an initial inventory has been completed, a determination should be made as to whether further documentation or study of historic, archeological, or cultural resources is appropriate.

### **C. Assessment of Current and Future Needs**

Once the inventory of existing conditions is complete, an analysis should be conducted to determine:

(1) the likelihood that the identified historic/cultural properties are currently or will be affected by inappropriate land uses or other human activities and, if so, whether measures already being carried out by local governments or other parties in the county and/or state are adequate to manage or protect the resources;

(2) any historic/cultural resources

that are in need of attention by the local government due to encroachment of human activities, unintended land use conflicts or physical disturbance, or rapid physical deterioration;

(3) whether policies or activities recommended in other parts of the county or municipal comprehensive plan will adversely impact the historic/cultural resources; and

(4) whether any conflicts, inconsistencies, competing priorities, or opportunities for coordination are evident in the resource management plans of the various local governments in the county.

The results of this analysis should be considered in the identification goals and strategies as well as the development of an implementation program that sets forth an agenda for management of these resources over the planning period.

### **D. Articulation of Community Goals, Objectives, and Strategies**

This step should include public involvement and coordination with other elements of the comprehensive plan. The intent of this section is to identify goals, objectives, and specific municipal strategies. Recommended goals:

- Historic Preservation Goal
- Heritage Education Goal
- Economic Development Goal
- Cultural/Historic Resource Survey Goal
- Local Historic Resource Protection Goal
- Sustainable Development Goal

### **E. Implementation Program/Action Plan**

The implementation program should prioritize stated strategies within each goal and set forth projected timeframes for completing projects. This step should also identify responsible parties for accomplishing strategies.

### **F. Funding Sources, Tools, and Methods to Implement Historic Resources Plan**

A variety of agencies, organizations, foundations, and private

funding sources should be identified and consulted to accomplish goals and priority projects to aid in the implementation of the historic preservation plan. The Bureau for Historic Preservation can assist municipalities in identifying appropriate resources to implement comprehensive historic preservation plans.

### **G. Establishing the Legal Basis for Historic Preservation**

The Historic Preservation Plan should include citations for applicable federal, state, and local laws governing your community's character.

## **Planning Resources**

The following is a partial list of publications and online resources that can assist municipalities with historic preservation planning:

### **Historic Preservation Law**

The National Historic Preservation Act of 1966  
<http://www.achp.gov/nhpa.html>

Pennsylvania History Code  
<http://www.phmc.state.pa.us/History/20Code/20Title37.pdf>

Pennsylvania Historic District Act  
[http://www.phmc.state.pa.us/bhp/Community/Historic\\_District\\_Act.pdf](http://www.phmc.state.pa.us/bhp/Community/Historic_District_Act.pdf)

Pennsylvania Municipalities Planning Code  
<http://mpc.landuselawinpa.com/index.html>

### **Public Participation**

Public Participation in Historic Preservation Planning  
<http://www.cr.nps.gov/hps/pad/PlanCompan/PublicPartic/>

### **Historic Preservation Planning**

Historic Preservation Planning Program, National Park Service, Heritage Preservation Services  
<http://www.cr.nps.gov/hps/pad/>

*The Secretary of the Interior's Standards and Guidelines for Preservation Planning*  
<http://www.cr.nps.gov/hps/pad/PlngStds/index.htm>

*Preservation Planning: Ensuring a Future for Our Past.* Cultural Resource Management, Vol. 23, No. 7.  
<http://crm.cr.nps.gov/issue.cfm?volume=23&number=07>

*Preparing a Historic Preservation Plan.* Bradford J. White and Richard J. Roddewig, American Planning Association, Planning Advisory Service, Report Number 450.

### Historic Resource Surveys

*Guidelines for Local Surveys: A Basis for Preservation Planning*  
<http://www.cr.nps.gov/nr/publications/bulletins/nrb24/>  
Cultural Resources Geographic Information System (CRGIS)  
<http://crgis.state.pa.us>

### Local Historic Resource Protection

*Historic District Designation in Pennsylvania*, Michel R. Lefèvre, Pennsylvania Historical and Museum Commission  
<http://www.phmc.state.pa.us/bhp/community/bhphistoricdistricts.pdf>  
Smart Growth Tools for Main Streets.  
National Trust for Historic Preservation  
[http://www.nationaltrust.org/smartgrowth/toolkit\\_planning.pdf](http://www.nationaltrust.org/smartgrowth/toolkit_planning.pdf)

### Pennsylvania Planning and Programs

Pennsylvania Department of Community and Economic Development (DCED)  
<http://www.newpa.com/>  
The Pennsylvania Greenways Clearinghouse  
<http://www.pagreenways.org>  
DCED—Land Use, News, and Highlights  
<http://www.landuseinpa.com/>  
The Pennsylvania Heritage Parks Program  
<http://www.dcnr.state.pa.us/brc/heritageparks/>

## Pennsylvania Municipalities Planning Code

### Article III. Comprehensive Plan. *[excerpt]*

- § 301. Preparation of comprehensive plan.
- § 301.1. Energy conservation plan element.
- § 301.2. Surveys by planning agency.
- § 301.3. Submission of plan to county planning agency.
- § 301.4. Compliance by counties.
- § 301.5. Funding of municipal planning.
- § 302. Adoption of comprehensive plan and plan amendments.
- § 303. Legal status of comprehensive plan within the jurisdiction that adopted the plan.
- § 304. Legal status of county comprehensive plans within municipalities.
- § 305. The legal status of comprehensive plans within school districts.
- § 306. Municipal and county comprehensive plans.

### § 301. Preparation of comprehensive plan.

(a) The municipal, multi-municipal, or county comprehensive plan, consisting of maps, charts and textual matter, shall include, but need not be limited to, the following related basic elements:

(1) A statement of objectives of the municipality concerning its future development, including, but not limited to, the location, character and timing of future development, that may also serve as a statement of community development objectives as provided in section 606.

(2) A plan for land use, which may include provisions for the amount, intensity, character and timing of land use proposed for residence, industry, business, agriculture, major traffic and transit facilities, utilities, community facilities, public grounds, parks and

recreation, preservation of prime agricultural lands, flood plains and other areas of special hazards and other similar uses.

(2.1) A plan to meet the housing needs of present residents and of those individuals and families anticipated to reside in the municipality, which may include conservation of presently sound housing, rehabilitation of housing in different dwelling types and at appropriate densities for households of all income levels.

(3) A plan for the movement of people and goods, which may include expressways, highways, local street systems, parking facilities, pedestrian and bikeway systems, public transit routes, terminals, airfields, port facilities, railroad facilities and other similar facilities or uses.

(4) A plan for community facilities and utilities, which may include public and private education, recreation, municipal buildings, fire and police stations, libraries, hospitals, water supply and distribution, sewerage and waste treatment, solid waste management, storm drainage, and flood plain management, utility corridors and associated facilities, and other similar facilities or uses.

(4.1) A statement of the interrelationships among the various plan components, which may include an estimate of the environment, energy conservation, fiscal, economic development and social consequences on the municipality.

(4.2) A discussion of short- and long-range plan implementation strategies, which may include implications for capital improvements programming, new or updated development regulations, and identification of public funds potentially available.

(5) A statement indicating that the existing and proposed development of the municipality is compatible with the existing and proposed development and plans in contiguous portions of neighboring municipalities, or a statement indicating measures which have been taken to provide

buffers or other transitional devices between disparate uses, and a statement indicating that the existing and proposed development of the municipality is generally consistent with the objectives and plans of the county comprehensive plan.

(6) A plan for the protection of natural and historic resources to the extent not preempted by federal or state law. This clause includes, but is not limited to, wetlands and aquifer recharge zones, woodlands, steep slopes, prime agricultural land, flood plains, unique natural areas and historic sites. The plan shall be consistent with and may not exceed those requirements imposed under the following:

- Act of June 22, 1937 (P.L.1987, No.394), known as “The Clean Streams Law”;
- Act of May 31, 1945 (P.L.1198, No.418), known as the “Surface Mining Conservation And Reclamation Act”;
- Act of April 27, 1966 (1st sp.Sess., P.L.31, No.1), known as “the Bituminous Mine Subsidence and Land Conservation Act”;
- Act of September 24, 1968 (P.L.1040, No.318), known as the “Coal Refuse Disposal Control Act”;
- Act of December 19, 1984 (P.L.1140, No.223), known as the “oil and gas act”; and
- Act of December 19, 1984 (P.L.1093, No.219), known as the “Noncoal Surface Mining Conservation And Reclamation Act”;

- Act of June 30, 1981 (P.L.128, No.43), known as the “agricultural area security law”;
- Act of June 10, 1982 (P.L.454, No.133), entitled “an act protecting agricultural operations from nuisance suits and ordinances under certain circumstances”; and
- Act of May 20, 1993 (P.L.12, No.6), known as the “Nutrient Management Act,” regardless of whether any agricultural operation within the area to be affected by the plan is a concentrated animal operation as defined under the act.

(7) In addition to any other requirements of this act, a county comprehensive plan shall:

- identify land uses as they relate to important natural resources and appropriate utilization of existing minerals;
- identify current and proposed land uses which have a regional impact and significance, such as large shopping centers, major industrial parks, mines and related activities, office parks, storage facilities, large residential developments, regional entertainment and recreational complexes, hospitals, airports and port facilities;
- identify a plan for the preservation and enhancement of prime agricultural land and encourage the compatibility of land use regulation with existing agricultural operations; and
- identify a plan for historic preservation.

### § 306. Municipal and county comprehensive plans.

(a) When a municipality having a comprehensive plan is located in a county which has adopted a comprehensive plan, both the county and the municipality shall each give the plan of the other consideration in order that the objectives of each plan can be protected to the greatest extent possible.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the comprehensive plan, or part thereof or amendment thereto, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

(c) Counties shall consult with municipalities and solicit comment from school districts, municipal authorities, the center for local government services, for informational purposes, and public utilities during the process of preparing or updating a county comprehensive plan in order to determine future growth needs.

**Michel R. Lefèvre** is a historic preservation planner for the Bureau for Historic Preservation of the Pennsylvania Historical and Museum Commission (PHMC), a position he has held since 1989. Before joining the PHMC, he served as historic preservation officer for the Berks County seat of Reading for eleven years. He has written about historic preservation for local, state, and national government publications and is the author of two PHMC publications, *Historic District Designation in Pennsylvania* and *A Manual for Pennsylvania Historical Architectural Review Boards and Historical Commissions*. He coordinated the PHMC’s 2000–2005 Historic Preservation Plan and has developed hundreds of seminars, workshops, conferences, and special events to educate both residents and visitors about the Keystone State’s rich cultural heritage. Lefèvre received a BS in public policy and an MA in public administration from the Pennsylvania State University, Harrisburg.