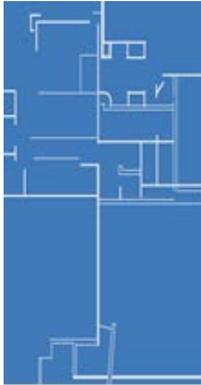


# State Codes & Local Preservation Planning in PA: A Basic 'Blueprint'



Jeannine Speirs, Senior Community Planner  
Chester County Planning Commission

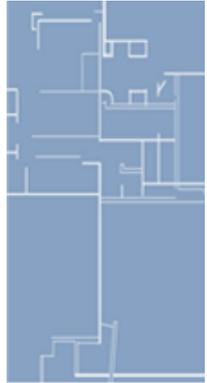
# A Bird's Eye View – Federal Level Laws You May Encounter

## National Historic Preservation Act

- National Register of Historic Places
- Section 106 Review of Federal Projects
- State Historic Preservation Offices
- Certified Local Gov't Program
- Secretary of the Interior Guidelines +

## Other Relevant Federal Laws

- Federal Tax Credits for Income-Producing Buildings
- Environmental Review under NEPA
- Section 4(f) Review under DOT Act +



# A Bird's Eye View – State Level Laws You May Encounter

## PA Historic Preservation Laws

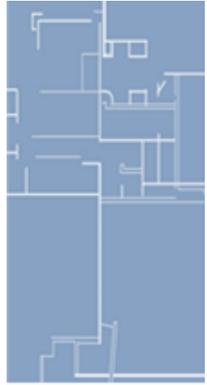
- State Constitution
- State History Code
- Act 167, Local Historic District Act
- Act 247, PA Municipalities Planning Code

## Some Other 'Key' PA Laws

- Township and Borough Codes – creation of Historic Commissions
- Uniform Construction Code – Existing Building Code
- Act 537, Sewage Facilities Planning – Cultural Resources Review
- State Tax Credits for Income-Producing Buildings

<http://www.phmc.pa.gov/Preservation/About/Pages/Laws-Regulations.aspx>

...a.k.a. *'enabling laws'* for municipal historic resource planning



# A Bird's Eye View – County Level

There are *no* County Historic Preservation Laws

There is County Historic Resources Planning

- County Comprehensive Plan, Landscapes2 – update 'Landscapes3' underway  
<http://www.chescoplanning.org/CompPlan.cfm>
- County municipal VPP Grant program – studies, surveys, plans, and ordinances  
<http://www.chescoplanning.org/MuniCorner/vpp.cfm>



*Landscapes3 will replace  
Landscapes2 as the official  
Chester County Comprehensive  
Policy Plan.*

Chester County  
Vision Partnership  
Grant Program  
Municipal Planning Grant Manual

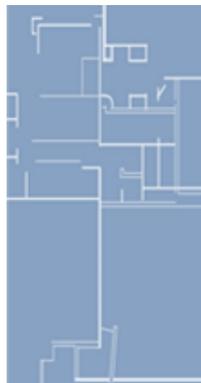


# Municipal Level Enabled Historic Resource Planning

PA State Constitution - Article I, Section 27 states:

*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.** Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.*

Provides the foundation to allow historic resource planning and protection in PA



# Municipal Level Enabled Historic Resource Planning

PA's primary planning and land use regulatory power lies at the municipal level.

- Act 247, PA Municipalities Planning Code (MPC)
- Act 167, Local Historic District Act



# Municipal Level Enabled Historic Resource Planning

## Act 247, PA Municipalities Planning Code

Article III establishes basis for county & municipal comprehensive planning

- Comprehensive Plans cover a variety of planning topics - land use, housing, community facilities, circulation ...and natural and historic resources
- §301(a)(6) states "The municipal, multi-municipal, or county comprehensive plan...shall include...a plan for the protection of natural and historic resources... This clause includes...historic sites."

<http://www.landscapes2.org/ToolsLandscape/Pages/PresPlanning.cfm>



# Municipal Level Enabled Historic Resource Planning

## Establishing Local Policy for Historic Resources

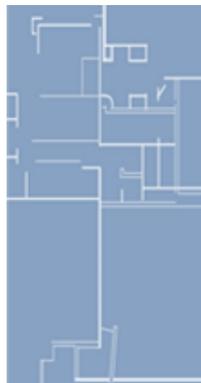
- Local historic resource protection policies are best established in comprehensive plans
- Goals and objectives emphasizing natural, scenic, agricultural, and archeological resources, open space, or maintaining community character can also complement historic preservation
- At the County, loss of important historic resources is one of the concerns addressed by the county comprehensive plan, which includes specific objectives and policies for these resources
- Historic resources planning and protection addressed as a plan chapter



# Municipal Level Enabled Historic Resource Planning

## Planning Process Overview

- Develop policy through identifying goals & objectives
- Evaluate Existing Conditions related to Historic Resources
  - Identify resources through documentation and surveys
  - Ascertain historic context
- Assess resources, and current & future needs
- Examine issues & opportunities
- Formulate recommendations
- Create an Implementation Action Plan, including 'at-risk' & high priority to-do list
- Establish a local historical commission to provide the knowledge base and technical resources for the municipality
- Engage the community and seek broad community input

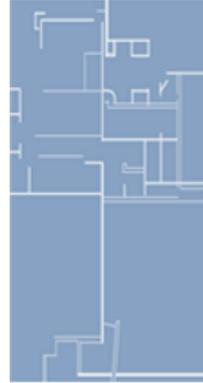


# Municipal Level Enabled Historic Resource Planning

## Act 247, PA Municipalities Planning Code

Article VI establishes the basis for zoning and protection of historic resources via zoning

- § 603(a) – “Zoning ordinances should reflect the policy goals of the statement of community development objectives [that should generally reflect comprehensive plan policy goals]
- § 603(b)(2) – “Zoning ordinances...may permit, prohibit, regulate, restrict and determine...size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures...”
- § 603(b)(5) - “Zoning ordinances ...may permit, prohibit, regulate, restrict and determine...protection and preservation of natural and historic resources and prime agricultural land and activities.”
- § 603(c)(7) – “Zoning ordinances may contain:...provisions to promote and preservation prime agricultural land, environmentally sensitive areas and areas of historic significance.”



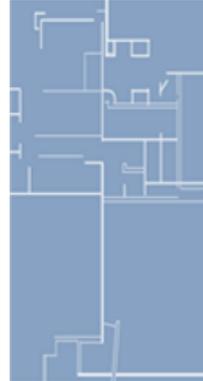
# Municipal Level Enabled Historic Resource Planning

## Act 247, PA Municipalities Planning Code

Article VI establishes the basis for zoning and protection of historic resources via zoning

- § 603(g)(2) – “Zoning ordinances **shall** provide for protection of natural and historic features and resources.”
- § 604(1) – “The provisions of zoning ordinances **shall** be designed to promote, protect and facilitate any or all of the following: preservation of the natural, scenic and historic values in the environment...”
- § 605(2)(vi) – “...Where zoning districts are created, all provisions shall be uniform for each class of uses or structures, within each district, **except that additional classifications may be made within any district: ...for the regulation, restriction or prohibition of uses and structures at, along or near: ...places having unique historical, architectural or patriotic interest or value...**”

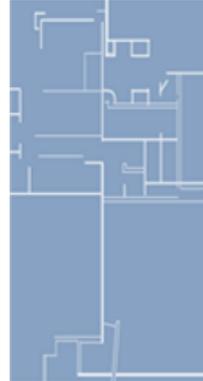
<http://www.landscapes2.org/ToolsLandscape/Pages/ProtectStand.cfm>



# Municipal Level Enabled Historic Resource Planning

## Historic Resources Zoning Overlay Key Provisions

1. **Statement of applicability**, purpose, and reference to the MPC
2. **General provisions** explaining the Overlay concept and boundaries
3. **Definitions** (can be placed in the Terminology article of the zoning ordinance)
4. **Historic resource inventory and map** that identifies the resources to which the standards apply.
5. **Modification of standards**, such as area and bulk requirements, **Additional use opportunities**, **Density bonuses**, **Lot averaging**, or other flexibility or incentives for reuse
6. **Special review criteria for conditional use or special exception** approval specific to historic resources
7. **Signage provisions** that are specific to historic resources
8. **Screening requirements** for historic resources, their context, and historic landscapes
9. **Demolition of historic resources** in whole or in part and demolition by neglect
10. **Study of impacts on historic resources** of nearby land use change and provide for mitigation
11. **Signage, demolition, or other permit application and process requirements**, including permit issuance, issuance with conditions, or denial.
12. **Historical Commission role** and relationship to Planning Commission and Zoning Officer roles

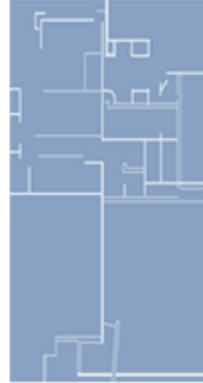


# Municipal Level Enabled Historic Resource Planning

## Act 167, Local Historic District Act

Authorizes cities, boroughs, and townships to...

- Designate and define by ordinance areas as local historic districts
- Protect historic and architectural character through regulating construction, reconstruction, alteration, restoration, demolition, or razing of any buildings, in whole or in part, within the local historic district
- Consider the effect a proposed change will have on the general historic & architectural nature of the district as seen from a public way via a Certificate of Appropriateness (COA) review and approval before any building alteration or change can occur
- Appoint a Historic Architectural Review Board (HARB)
  - Review & make recommendations to the governing body on COA applications
  - At least 5 members including 1 registered architect, 1 licensed real estate broker, and 1 building inspector



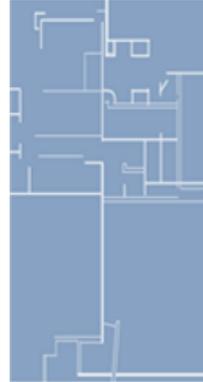
# Municipal Level Enabled Historic Resource Planning

## Act 167, Local Historic District Act

- Most often applied in areas with a concentration of historic resources
- Can be applied in a more dispersed setting as a 'conservation district'
- Requires PHMC to certify historic district boundaries
- Must follow certain steps that differ from MPC, including PHMC review of draft regulations prior to municipal adoption
- Specific design guidelines reflective of distinct district character often created vs applying more general Sec. of the Interior's Standards

<http://www.phmc.pa.gov/Preservation/Community-Preservation/Pages/Planning-Ordinances.aspx>

<http://www.phmc.pa.gov/Preservation/About/Documents/Local-Historic-District-Certification-Policy-Checklist.pdf>



# Municipal Level Enabled Historic Resource Planning

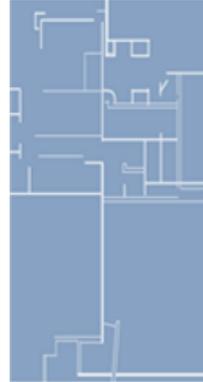
## Act 247, PA Municipalities Planning Code (MPC) summary

- Enables local cultural resource protection
- Calls for cultural resource protection to be integrated into local planning via comprehensive plans and ordinances

## Act 167, Local Historic District Act summary

- Enables municipalities to create certified local historic districts to protect distinct character including a historic architectural review board
- Specifically focus on control of architectural character in a defined area of a historic district

Both have clear mandates and room for flexibility and customization in implementation

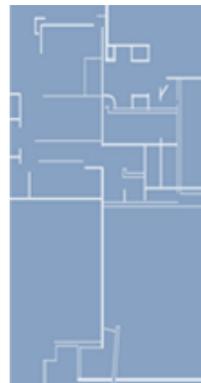


# Municipal Level Enabled Historic Resource Planning

## Sampling of Historic Resource Protection Measures

Protection Measures	Birmingham Twp.	E. Bradford Twp.	E. Marlborough Twp. <sup>2</sup>	Kennett Square Boro. <sup>3</sup>	Kennett Twp.	New Garden Twp.	Newlin Twp.	Pennsbury Twp. <sup>4</sup>	Pocopson Twp.	Thornbury Twp., CC	W. Bradford Twp.	Westtown Twp.
<b>Planning <sup>1</sup></b>												
<b>Comprehensive Plan Policy</b>												
• General Historic Resource Protection	X	X	X	X	X	X	X	X	X	X	X	X
• Battlefield Preservation	X	X			X			X		X		X
<b>Historic/Cultural Resources Plan</b>	X	X	X	X	X	X	X	X <sup>5</sup>	X	X	X	
<b>Regulatory</b>												
<b>SLDO Identification or Plan Review</b>	X	X			X	X	X	X		X	X	X
<b>Historic Preservation Zoning District (Other than Act 167)</b>	X	X	X	X		X		X <sup>6</sup>		X <sup>7</sup>	X	
<b>Specific Historic Resources Protection Standards</b>												
• Development Impact Analysis	X	X			X		X	X		X	X	
• Open Space, Green Area, or Recreation Use	X	X		X	X	X	X	X		X	X	
• Special uses or Adaptive Reuses <sup>8</sup>	X	X	X	X	X	X	X	X		X	X	
• Design standards <sup>9</sup>	X	X	X	X	X	X		X		X	X	X
• Other related district <sup>10</sup>	X	X			X		X	X	X	X	X	X
• Modification of standards <sup>11</sup>	X	X	X	X	X <sup>12</sup>	X	X	X	X	X	X	X <sup>13</sup>
• TDR addresses Historic Resources	X							X	X <sup>14</sup>			
• Additional Density Permitted		X	X						X		X	X
• Demolition Standards	X	X	X	X	X	X		X		X	X	
• Archeological Resources Addressed	X		X					X		X	X	
• Scenic Standards include Historic Resources <sup>15</sup>	X	X		X <sup>16</sup>	X	X	X			X <sup>17</sup>	X	X
<b>Act 167 Certified Local Historic District</b>	X	X	X	<sup>18</sup>								

Source: CCPC, 2012. A bold X indicates strong Protection Policies. Notes: 1. Based on municipal Comprehensive



## Developing Local Historic Resource Regulations Summary

### Key Objectives

- Encourage preservation of community character
- Facilitate protection of historic integrity
- Provide incentives for continued use
- Discourage unnecessary demolition

### General steps

- Inventory Historic Resources
- Foster Citizen Participation
- Ordinance Preparation & drafts
- Ordinance Adoption

### Relationship between MPC and Act 167 Regulations

- Regulations should complement one another
- Conflicts if provisions affecting a structure's physical elements (Act 167) conflict with permitted uses, lot areas, or other standards (MPC) for the structure

