

FEDERAL, STATE, AND COUNTY HISTORIC POLICY AND PROGRAMS

There are a variety of federal, state, and county programs and policies that are relevant to historic resources and historic preservation. While the following is not a comprehensive listing of these programs and policies, it does cover those most relevant to Thornbury Township.

Federal Policy and Programs

The *National Historic Preservation Act of 1966 (NHPA)* earmarked the beginning of a broad scale federal historic preservation policy and created a strong legal basis for the protection of historic resources through a framework of measures to be used at the federal, state, and local levels. The NHPA created a framework for protecting historic resources through a system of reviews, regulations, and incentives, and encouraged cooperation to address the protection of historic resources. Key NHPA programs and mandates include:

- Formalized the National Register of Historic Places.
- Requires any project that receives federal funds, sponsorship, permitting, or assistance to review its impact on historic properties (Section 106 review).
- Authorized State Historic Preservation Offices (SHPO) to facilitate cooperation among governmental levels by coordinating and administering preservation activities contained in the NHPA on a state level. In Pennsylvania, this agency is PHMC.
- Authorized the Certified Local Government (CLG) Program, which enables municipalities to participate directly in federal preservation programs and to access (through the state) certain funds slated for historic preservation activities.



Pennsylvania Historical
& Museum Commission

The *National Register of Historic Places* is the official, comprehensive listing of districts, sites, buildings, structures, and objects of historical, architectural, engineering, or cultural significance to the prehistory and history of the locality, state, or nation that are deemed worthy of preservation. The list is maintained by the NPS under the US Department of the Interior. In Pennsylvania the National Register program is managed by the Pennsylvania Historic and Museum Commission (PHMC), specifically it's Bureau for Historic Preservation.

Sites on the National Register are termed 'National Register listed' sites. Through a preliminary review process, sites also may be determined to be

eligible for listing, referred to as ‘National Register eligible’ or as having received a ‘Determination of Eligibility’ (DOE). In the case of a National Register Historic District, proposed District boundaries are delineated to include areas and properties determined to be significant; these properties are ‘contributing’ to the district. Within those boundaries may also be properties that are not considered significant to the district; these properties are considered ‘non-contributing.’

A National Register listing on its own does not affect the rights of property owners nor place obligations or restrictions on the use or disposition of property. Local governments can choose to locally regulate historic resources, and include National Register properties within their definition of historic resources. A National Register listing, or determination of eligibility, does impact the use of federal funds or assistance because federal or federally assisted projects must be reviewed for their potential impact on National Register listed or eligible sites under the Section 106 process (described below).

To determine significance, there are established criteria against which a property is reviewed to determine whether it could be on the National Register. Criteria for evaluation are:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that:

- are associated with events, activities, or patterns that have made a significant contribution to the broad patterns of our history; or
- are associated with the lives of persons significant in our past; or
- embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- have yielded, or may be likely to yield, information important in prehistory or history.

The *Section 106 process* is one of the most effective components of the NHPA in reducing the loss of historic resources, and requires that any federally sponsored, funded, permitted, or assisted project, including those requiring a federal permit, license, or approval, is reviewed for its impact on historic resources either listed on, or determined eligible for, the National Register. The federal agency directly or indirectly responsible for the project is responsible for ensuring compliance with the review process. Section 106 does not necessarily protect historic

resources from demolition or alteration; it requires an investigation of alternatives and consideration of mitigation measures for projects that are federally sponsored, funded, or assisted. For example, all PennDOT projects must ensure that a Section 106 review is conducted prior to construction to determine a project's potential impact on historic resources.

The *Certified Local Government (CLG) Program*, enabled under the NHPA, was established to facilitate greater participation in historic preservation at the local level. It strives to encourage local, state, and federal partnerships to protect historic resources and address historic preservation issues. A CLG is one that meets certain criteria including:

- The adoption and enforcement of historic preservation regulations,
- establishment of an historical commission or similar body, and
- engaging in the survey of historic properties.

One of the most important incentives of the CLG program is increased access to federal preservation funds. 10% of each state's allocation of historic preservation funds (as authorized by the NHPA) must be allocated to the CLGs. In Pennsylvania, funds are administered by PHMC.

The availability of *federal income tax credits for historic preservation* – specifically the rehabilitation of income producing historic resources - has proven to be a very effective means of encouraging their voluntary preservation. Investment tax credits first became available for historic preservation in 1976. Although the program was scaled back in 1986, investment tax credits remain available and may result in substantial savings in rehabilitation costs. Section 47 of the Internal Revenue Code provides a rehabilitation tax credit of 20 percent for the rehabilitation of certified historic structures (for commercial, industrial, agricultural, or rental residential purposes, but not for structures used exclusively as an owner's private residence) *or* a rehabilitation tax credit of 10 percent for the rehabilitation of a non-historic buildings placed in service before 1936 (applies only to buildings rehabilitated for *non-residential* uses). A certified historic structure is one that is either individually listed on the National Register or is certified as contributing to a National Register Historic District. (See State Policy and Programs for details on Pennsylvania's new companion tax credit program.)

Unrelated to the federal rehabilitation tax credit program, but with federal tax implications, are preservation easements. For historic preservation purposes, a preservation easement is a legal agreement designed to protect a significant historic, archaeological, or cultural

resource, or a portion thereof. Under an easement, a property owner grants a portion of the property rights to a qualified organization. Many times historic preservation easements are specifically for the preservation of a historic building's façade and referred to as a façade easement. There are potential financial benefits for a property owner from the charitable donation of a facade easement to a tax-exempt organization. The donation of a façade easement must be made for conservation purposes, such as the protection of a National Register listed historic structure, and must be made in perpetuity. Unlike the rehabilitation tax credit, an easement donation can be for a structure used for either business or non-business use.

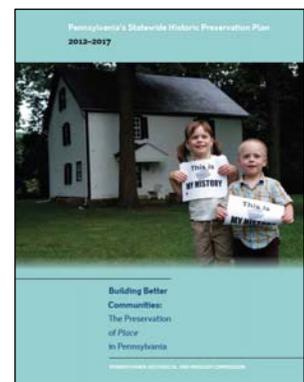
State Policy and Programs

The *Pennsylvania History Code, Title 37* of the Pennsylvania Consolidated Statutes reiterates many of the federal mandates required through NHPA. The Code pertains to the conservation, preservation, protection, and management of historic and museum resources and identifies PHMC as the responsible agency. It outlines Pennsylvania's legal framework for historic preservation and also mandates cooperation among other state entities in identifying and protecting historic and archeological resources. Additional state legislation addresses preservation, supplementing the provisions of the History Code.

The *Pennsylvania Historical and Museum Commission (PHMC)* is responsible for maintaining and administering the state's sites and museums, making determinations of eligibility for the National Register, managing the State Archives, and administering a wide variety of historic preservation programs as the State Historic Preservation Office (SHPO). PHMC also provides education and outreach about historic preservation.

Building Better Communities: The Preservation of Place in Pennsylvania - Pennsylvania's Statewide Historic Preservation Plan 2012 - 2017 is the most recent update to Pennsylvania's historic preservation plan, first developed in 1999 by PHMC and its partners. The five main goals of the plan are as follows:

- Goal 1: Increase preservation planning at the local level.
- Goal 2: Expand and strengthen state and federal partnerships.
- Goal 3: Bolster the efforts of preservation advocates and partners.
- Goal 4: Identify, recruit, and engage new audiences.
- Goal 5: Administer an effective and proactive statewide historic preservation plan.



The latest Statewide Historic Preservation Plan focuses on local efforts and partnerships.

Act 167, Historic District Act of 1961, authorizes municipalities to create local historic districts and protect historic and architectural character through regulating the erection, reconstruction, alteration, restoration, demolition, or razing of buildings within those historic districts, once they are formally certified through PHMC. Act 167 also requires the appointment of a HARB to advise the local governing body on the appropriateness of building activity in the district.

Act 247, the Pennsylvania Municipalities Planning Code (MPC) authorizes the use of municipal land use controls such as use regulations and area and bulk requirements to protect historic resources. MPC enabled regulations primarily focus on land use-oriented provisions, in contrast to the Act 167 regulations that focus on architectural character. The MPC regulates places having unique historical, architectural, or patriotic interest or value through the creation of a specific zoning classification. In Chester County, the MPC has often been applied to protect historic resources through adoption of municipal-wide historic overlay zoning. Relevant portions of the MPC include Section 301(a)(6), which notes that a municipality shall include a plan for the protection of historic resources within their comprehensive plan. Article VI of the MPC establishes the basis for zoning ordinances and specifically notes that zoning ordinances shall provide for protection of historic features and resources.

PHMC's Historical Marker Program, established in 1946, is one of the PHMC's oldest and most recognized state programs. Located throughout Pennsylvania, the blue and gold markers highlight people, places, and events significant in history. New markers are approved and erected along Pennsylvania roadways every year. PHMC owns and maintains the markers after they are installed and dedicated. There are over 2,000 markers statewide, but none within Thornbury Township.

Act 537, the Pennsylvania Sewage Facilities Act, requires each municipality in Pennsylvania to have an Official Sewage Facilities Plan that addresses existing and future sewage disposal needs. With limited exceptions, the Pennsylvania Department of Environmental Protection (PADEP) requires the completion of formal sewage facilities planning modules for subdivisions and/or land development proposals to update the municipal Act 537 plan. Once a planning module has been completed by an applicant, it is given to the municipality in which the project is proposed for review, as well as PADEP and other agencies.

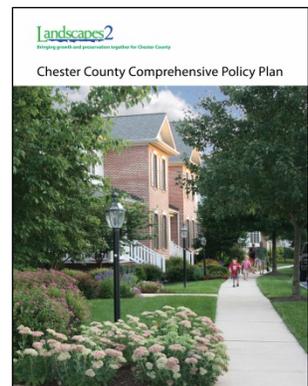
Prior to PADEP review of the planning module, PHMC reviews project activities for their potential effect on significant historic and archeological resources and provides comments to PADEP. PADEP is to consider this

review and implement PHMC’s recommendations for the site. An applicant is required to submit a Cultural Resources Notice form to PHMC if a proposal involves ten acres or more of earth disturbance; and/or if a 50 year old or older structure(s) is on the site of the proposed development. Activities which may affect properties included on the National Register are not exempt regardless of project size. Procedural gaps can occur in the process and a municipality may need to take steps to ensure that they receive PHMC comments.

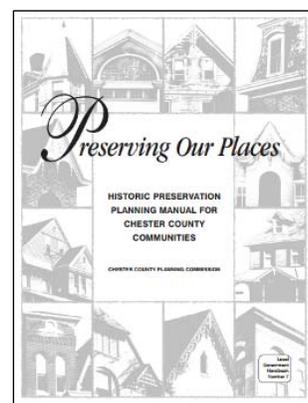
The *Pennsylvania Historic Preservation Incentive Act* closely mirrors the federal program, providing a 25% tax credit for restoring historic properties. Historic properties are defined as those listed on the National Register, located within a historic district listed on the National Register, or certified by the National Park Service. The property must be used for income-producing purposes. The Act was signed into law in 2012, with an annual limit of \$3,000,000 and an individual property cap of \$500,000. Applications for this program are handled by the Pennsylvania Department of Community and Economic Development (DCED).

County Policy and Programs

Landscapes2, the Chester County Comprehensive Policy Plan, addresses the loss of important historic resources. *Landscapes2* is a 2009 update to *Landscapes*, which was developed in response to concerns over sprawling development patterns, land consumption, and loss of resources. *Landscapes2* champions balance of growth and preservation, sustainable communities, and protection of cultural resources. The Plan includes objectives, policies, and actions related to historic resource protection.



The Historic Preservation Planning Manual for Chester County Communities (Preserving Our Places) promotes the implementation of the historic preservation goals and objectives in *Landscapes* and *Landscapes2*. Preserving Our Places provides general background information about historic preservation, providing an outline of core elements of a comprehensive historic resource protection plan, and describing historic resource protection planning for Urban, Suburban, and Rural settings.



Through the *Vision Partnership Program (VPP)*, the Chester County Commissioners provide matching grants for eligible projects on a competitive basis to qualified municipalities in the County. Historic preservation plans, historic resource surveys, and ordinance and special study implementation projects may be eligible for funding under this program.

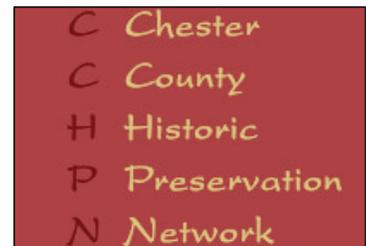
The *Chester County Heritage Preservation Coordinator* promotes heritage tourism for the County as well as provides direct heritage and historic preservation assistance to municipalities in a variety of ways, including the following:

- The **Chester County Historic Resource Atlas**, as noted previously, is a cooperative planning effort to identify and inventory historic resources 50 years or older, and is being completed on a municipality-by-municipality basis. Thornbury Township created an *Atlas* in 2009.
- The **Chester County Historic Certification Program** resulted from public and private requests for acknowledgement of locally significant historic resources that may not be eligible for the National Register. Designation of locally significant historic resources that meet specific criteria is issued upon request. Documentation (such as assessment and deed records, lineage, and historic maps) must be submitted in support of the designation.
- **Technical expertise and educational assistance** is provided to municipalities, residents, businesses, property owners, task forces, historic preservation organizations, and historical commissions, committees and societies, and covers historic preservation issues as well as historic structure preservation and maintenance standards.

Other Programs and Entities

The *Chester County Historic Preservation Network (CCHPN)* is a non-profit organization that provides support to grassroots historic preservation efforts. CCHPN's mission is to be an affiliation of local organizations and individuals dedicated to protecting and preserving Chester County's historic resources and landscapes through education, facilitation, and public and private advocacy. Activities include educational programs, recognition of volunteers, highlighting successful preservation projects, publishing a newsletter, providing support to the Chester County Historic Resources Atlas project, and co-sponsoring the Chester County Town Tours and Village Walks program.

Past *federal transportation funding bills* have included programs to strengthen the cultural, aesthetic, and environmental aspects of the nation's intermodal transportation system. The current federal funding bill (MAP-21) is more limited with respect to historic resources, with potentially eligible historic projects being restricted to historic preservation of transportation facilities under the Transportation Alternatives Program (TAP).



The *National Trust for Historic Preservation* has helped protect historic resources for more than 50 years. The Trust provides leadership, education, and advocacy to save America's diverse historic places and revitalizes communities. The Trust owns and operates a collection of nationally significant house museums and provides a wide range of preservation services across the country, including grant programs.

Partners for Sacred Places, based in Philadelphia, is the nation's only non-denominational, non-profit organization devoted to helping Americans embrace, maintain and make good use of older and historic religious structures. Partners for Sacred Places provides assistance and serves as an information clearinghouse for groups interested in finding out more information on how to maintain historic structures, share property and uses, and conduct outreach and fundraising.