

HOW TO

Protect and Preserve the Historic Places *That Matter to You*



Author's Note

This publication was originally intended to be an update of Preservation Pennsylvania's 1998 *Crisis Handbook: A Guide to Community Action*. But, after spending more than four years traveling around Pennsylvania providing technical assistance to those needing help with preservation projects, this seemed to me like an opportunity to not only tell people what to do in the event of a preservation crisis, but to talk about how to avoid them whenever possible. Having recently spent several days in workshops with Donovan Rypkema, I also wanted to fold in many of the valuable concepts and techniques provided in his *Feasibility Assessment Manual for Reusing Historic Buildings*. And while I was at it, I thought I'd do my best to address some common questions and use examples to illustrate some best practices and common pitfalls that I have seen here in Pennsylvania. I sincerely hope that the resulting document is useful to you as you work to protect and preserve the historic places that matter to you.

Sincerely,

Erin Hammerstedt

Section 1:

Understand the Problem and Build Support
See Section 1 document

Section 2:

Understand the Building
See Section 2 document

Section 3:

Consider Alternatives and Use Appropriate Tools
page 21

CONSIDER A RANGE OF ALTERNATIVES page 21

SELECT A PRESERVATION TREATMENT page 21

UNDERSTAND THE IMPLICATIONS OF A CHANGE IN USE page 22

BE REALISTIC ABOUT PARKING REQUIREMENTS page 23

CONSIDER YOUR TARGET MARKET page 23

EVALUATE OWNERSHIP ALTERNATIVES page 24

USE APPROPRIATE PRESERVATION TOOLS page 26

UNDERSTAND FEDERAL REGULATIONS page 27

APPLY STATE AND LOCAL REGULATIONS page 28

UTILIZE AVAILABLE LEGAL TOOLS page 28

Section 4:

Assess the Project's Financial Feasibility
See Section 4 document

Conclusion

Section 3: Consider Alternatives and Use Appropriate Tools

CONSIDER A RANGE OF ALTERNATIVES

In many cases, people start by deciding what they want to do with a building, and move forward from there. But experience tells us that it is best to let the building, the community, and the market help to determine what the best alternative for a project is.

In general, there are three project alternatives, each with multiple variations:

- do nothing, either leaving the building to deteriorate or committing to maintaining it as it is now;
- restore it to its original use; or
- rehabilitate it to accommodate a new use.

In most cases, historic buildings need a new use. When considering possible uses for a historic property, begin by being as inclusive as possible. Start by considering a wide range of use alternatives, and then systematically eliminate uses that are not permitted or supported. First, eliminate those categories of use that are not allowed under zoning. Then eliminate uses that the community and real estate market will not support. Options that do not meet the needs or satisfy the constraints of stakeholders should also be eliminated. And, finally, those uses that just don't fit in the building need to be removed from the list of possibilities.

Rather than try to move forward with one specific outcome in mind, try to establish, rank and prioritize a list of possibilities to explore.

Some alternatives may appear to be achievable, initially, but feasibility studies may show that they are unlikely to be able to sustain themselves over time. Those uses should probably be eliminated as well. (See Section 4 for more information on analyzing financial feasibility and sustainability).

SELECT A PRESERVATION TREATMENT

The Secretary of the U.S. Department of the Interior has defined four different preservation philosophies or treatments that can be applied to preservation projects.

Preservation

is focused on retaining all historic materials through conservation, maintenance and repair. It respects and retains the changes that have occurred over time.

Rehabilitation

requires the preservation of a property's character-defining features but allows for more latitude in replacing or altering those features that are not essential to the property's historic character in order to accommodate a new or continued use.

Restoration

focuses on the retention of materials from the most significant time in a property's history, while permitting the removal of materials from other periods.

Reconstruction

recreates a building, structure or feature that no longer survives.

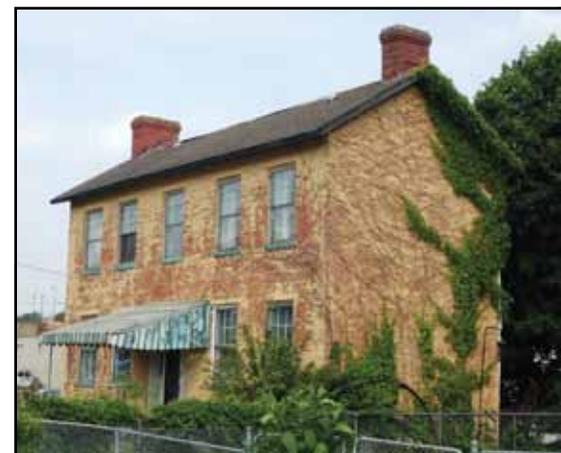
In order to choose the most appropriate treatment for a preservation project, you should consider a building's significance as well as its physical condition. Because it allows for the greatest flexibility in use while preserving what makes the historic property unique and valuable, rehabilitation is the recommended treatment for most projects.

Rehabilitation involves identifying and preserving the character-defining features of the historic property, while allowing for appropriate changes that accommodate a new use. The best historic preservation strategy is occupancy. Thus, it is advisable in all but the rarest of cases to keep buildings in productive use so that there is a reason to maintain them, even if this means making some changes to the property.

REALITY CHECK – OPEN-MINDEDNESS IS KEY

When considering alternatives, it is important that you remain open to the ideas and suggestions of others. By focusing on a predetermined outcome, you may build a close following but will almost certainly lose broader public support. You may also miss out on ideas for the use of the property that may be more fitting to the building or community, and may be more sustainable in the long run or do more to invigorate the community.

Be sure to keep the goals and objectives of the project in mind, and consider all use alternatives that may achieve those goals.



Volunteers in Elizabeth, Pa. are working to identify an appropriate and sustainable new use for the Ekin House. They are considering a range of alternatives and hope to select one based on community goals, legal and physical limitations, financial realities and other factors.

UNDERSTAND THE IMPLICATIONS OF A CHANGE IN USE

Use

The issue of “use” is one that causes problems for preservation projects in many cases because the term has several different meanings as it relates to existing buildings, each placing different legal limitations on what can be done with the property.

Building and fire codes classify buildings based on their use or occupancy and associated hazards. Each classification has slightly different requirements in order to ensure life safety. In buildings that contain multiple use classifications, or are “mixed occupancies,” different parts of the building will be required to meet the codes for those specific areas. In places where more than one occupancy may apply, the stricter code is usually enforced.

Zoning ordinances have yet another set of “use” requirements. Zoning is a land use planning tool used by local governments to designate what uses are permitted and which are prohibited in mapped zones. In addition to regulating use, zoning ordinances may place certain requirements on historic properties, requiring a review process before making changes. In order to eliminate any unpleasant surprises, check to see what uses are permitted where your building stands, and if the property you are interested in is located in a historic zoning district or overlay.

In most cases, both types of “use” need to be considered for any rehabilitation project.

RESOURCES

Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings:

<http://www.nps.gov/history/hps/tps/standguide/>

Zoning

A good starting place when identifying potential uses for a historic property is to look at the local zoning ordinance and see what uses are permitted and prohibited where your building stands. Zoning regulations are used by municipalities to control and direct the development of property, and generally reflect their vision for the use and character of the community. In addition to identifying permitted and prohibited uses, the zoning ordinance will include parking and other requirements associated with each potential use. Zoning will give you a good idea of what will be required of the project for each of the potential new uses. It is sometimes possible to get a variance from the provisions outlined in the zoning ordinance, but zoning provides a good starting place for understanding what will work easily, and what might work if you can overcome the additional hurdles.



THE VILLA CHAPEL, Erie, Pa.

The Villa Chapel is vacant and deteriorating. In an attempt to encourage the current owner to rehabilitate or relinquish control of the building, a group of concerned citizens held a design charette to explore potential uses for the historic chapel. Local citizens worked with architects to develop a range of possible uses for the building. The possible uses were then ranked, and three that seemed feasible and met the goals of the participants were explored further. The process culminated in a report that was presented to the property owner for consideration. This proactive effort may well be what was needed to get the historic building back into use.

Obtain an Occupancy Permit

If you are considering putting a business into an existing building, or rehabilitating a building for reuse, start by talking with your local building code official and zoning officer to determine if there is an existing occupancy permit for the space.

If an occupancy permit has been issued for the building or space, identify the use classification, and what specific uses fall under that classification. If you are considering changing the use, discuss what will be required in order to get an occupancy permit for the desired new use(s). If the use classification changes to a more hazardous one, you should expect to have to make modifications to ensure that people in the building are safe.

If an occupancy permit has not been issued, talk with your local building code official about how to obtain one.

Please note that, for liability reasons, building code officials will not be able to help you design your project. However, if you show them plans, they should be able to tell you specifically what does not satisfy the code requirements. It is recommended that you retain an architect to help design your project and ensure that any relevant code requirements are met. Architects cost money, but the savings in time, hassles, and having to redo work will certainly pay off.

You should also consider what the historic use of the property was, and try to preserve any character-defining features that reflect that use.

RESOURCES

Sometimes buildings are vacant or underutilized for a period of time while a new use or owner is found. During that period, it is important to secure the building from the elements and intrusion in order to ensure its preservation. The common term for this is “mothballing.” For more information about mothballing historic buildings until they can be returned to productive use, please go to <http://www.nps.gov/hps/tps/briefs/brief31.htm>.

BE REALISTIC ABOUT PARKING REQUIREMENTS

In this day and age when many of us are dependent on automobiles for transportation, many municipalities require that property owners provide off-street parking for certain uses. Sometimes, these requirements help to limit or determine what use(s) are possible.

If parking is a problem, what are the potential solutions? Could a variance be obtained? Would it be possible to arrange for off-site parking, such as use of a nearby parking lot? Or could an agreement be put into place allowing shared parking, such as use of a lot for a business during the day, and residents at night; or for a church on Sunday, and business during the week?

PARKING CONSIDERATIONS

After suffering from a fire, this downtown building is available for rehabilitation. One interested developer wants to convert the building for use as offices, and another wants to put retail space on the first floor and residential apartments above. Based on the municipality's parking requirements in the zoning ordinance, 54 off-street parking spaces would be required if the building were converted for use as offices, whereas only 12 would be required if the building were used for a combination of commercial and residential uses. Given the constraints of the downtown, it appears that office space is not a feasible reuse alternative because of the parking requirements, but the commercial/residential mixed use might be possible.



CONSIDER YOUR TARGET MARKET

Many believe in the saying, "If you build it, they will come," but this is not always true. To some extent, people are drawn to unique experiences and opportunities, and will travel for something special. For example, if your downtown has six wedding dress shops, including two that sell vintage dresses exclusively, you may be able to draw shoppers from a relatively broad region. But in most cases, you need to look within your community and region, understand the demographics of the area and the trends of change, and consider the realities of your market when determining what uses are feasible and likely to be sustainable over time.

That being said, your target market doesn't necessarily need to be in the majority. For instance, if you are developing a building with two high-end condominiums on the upper floor, it may be OK that only 10% of the community's 5,000 households fit the demographic you are looking for, as long as you have heard from the community that there is a demand for high-end housing, and you feel that the factors that keep those people there (jobs and quality of life) are stable or improving.

If you are rehabilitating a building to accommodate residential apartments, is there a demand for subsidized affordable housing? Is there a need for rental housing for college students? Or are you seeking a high-end, luxury clientele? If you plan to open a retail store, will it be geared toward the high school students that hang out in the area every afternoon? Or do you plan to lure in out-of-town shoppers in search of something special?

THE IMPORTANCE OF DEMOGRAPHICS

The home of Penn State University, the borough of State College, Pa. has an unusual demographic. 70.6% of the town's population is between the ages of 18 and 24.

Just 5.1% of the town's population is under 18 (compared to the national average of 23.7%). Only 4.7% of the population is over 65 (while the national average is 13.3%). It should not be surprising, then, that—with the exception of a few destination stores—the most successful businesses tend to be those geared toward people in their 20s, such as clothing stores, casual restaurants and bars. Rental housing is also at a premium in the community, with rates being out of scale with other communities in central Pennsylvania.



EVALUATE OWNERSHIP ALTERNATIVES

The owner of a historic property is always an essential participant in a historic preservation project. The following ownership alternatives should be explored as appropriate:

1. Maintain Current Ownership

Work with the existing owner

As was discussed on page 2, when property owners aren't doing something with their historic property, there is usually a reason. Your first alternative should be to work with the property owner to identify what is preventing them from taking action, and collaborate with them in an attempt to find a solution. Understand their needs and intentions, and try to help them overcome the obstacles that they face. For instance, if they don't know what to do, provide them with technical assistance to explain what steps can be taken to move forward. If they do not have the financial resources to maintain or improve their property, help them find sources of revenue, funding or financing to help them. If they don't want the hassle of doing the project, offer to manage it for them, if you are capable of doing so. Or if the project is outside of their risk tolerance, take steps to eliminate some of the uncertainty or risk so that the project becomes more palatable. If the organization or business is struggling, help them revise their mission or business plan to improve the situation. Discuss limited partnership as a way if working with a current owner to minimize risk and bring in additional resources to the project.

Make the existing owner take action

In some cases, it may be necessary to utilize available tools to force the owner to take action. If the building you are concerned about poses a real problem and you are unable to work with the current property owner, begin by talking with your municipal staff or elected officials to see what local ordinances might exist to aid in the preservation of the property. For instance, if deferred maintenance threatens a property or is detracting from a historic district, perhaps the municipality can enforce a local property maintenance code, requiring the responsible parties to do the necessary repair work. Other tools might include a local historic district ordinance, a demolition ordinance, a public health and safety ordinance, a rental property ordinance, anti-bligh laws or conservatorship. Each of these has the potential to contain procedures that can make a property owner take care of their property.

In addition to the tools available through local ordinances, some properties are regulated by deed restrictions or easements. To know whether a property is encumbered by restrictions or easements, conduct a title search or hire a professional to do so. Where easements and restrictions are in place, they can be powerful preservation tools. *(For more information about deed restrictions and easements, please see page 28.)*

2. Facilitate a Change in Ownership

In many situations, property owners are willing to let go of their problem historic properties if the right proposal is made to them. Use the information in this manual to determine whether a viable solution exists for the property. If a solution exists, negotiate with the current property owner to settle upon a fair purchase price, or arrange some other form of benefit or return for them.

Become the property owner

In all but a few rare cases, the owner of a historic property is the driver in determining what is done with it. Therefore, to have the greatest level of control, it is sometimes necessary to acquire the property you are interested in. However, there are risks associated with this as well. Do not acquire a property without thinking it through. Before rushing in to acquire a historic property, be sure to identify what is required to make the necessary improvements, and know your capacity for carrying out the work and sustaining the resource.

Identify another property owner

In extreme situations, when the property owner does not respond to offers of assistance or municipal pressure and is unwilling to sell the property, it may be necessary to take legal action to force a change in ownership. If the building is underutilized and is blighted, there may be tools that allow someone to step in and remedy the situation and then lien or seize the property. Or, if the situation is dire enough, the community may need to consider acquiring the property through eminent domain to ensure the safety and stability of the surrounding neighborhood and community. *(These tools are explained on the next page.)*

Your role may be to help educate the public and elected officials and their staff as to why the project is important. Communicating ways the project will benefit the community is critical to making the case for intervention and legal action. *(See page 7 of this document for information on building support for your preservation project.)*

REALITY CHECK Remember, a property owner is under no obligation to accept your ideas or carry out projects that you've designed. Unless they are willing to cooperate, or there are reasons that tools should be utilized to force action, you may have to recognize that they own the property, and allow them to do as they will.

RESOURCES

Feasibility Assessment Manual for Reusing Historic Buildings Available on Amazon.com

It will be necessary to retain an attorney or solicitor to help utilize legal tools to force a change in ownership. It is important to remember that when a change of ownership is forced, in addition to legal fees and challenging public relations, there may be restrictions on what can be done with the property after it is acquired.

Blight

Check within your community and at the state level to determine if there are any anti-blight laws that allow individuals, organizations or units of government to intervene and force a change in ownership. If they exist, work with a local attorney and your municipality to utilize them appropriately.

Eminent Domain

The Fifth Amendment of the United States Constitution allows private property to be acquired by eminent domain, even if the property owner does not wish to sell it, provided just compensation is paid. Government entities can take a property through eminent domain, but the property must be used in a manner that has a demonstrated public benefit. Common uses include roads, parks or public buildings.

Elimination of blight through redevelopment projects often provides sufficient public benefit to satisfy the public use requirement. A use that provides a minor public benefit and a large private benefit may also satisfy the public use requirement.

Eminent domain requires the government entity to follow proper procedural requirements; if they do not follow these requirements, the acquisition can be challenged and stopped. For more information about eminent domain in your area, please contact a qualified attorney.



**BRAEMAR COTTAGE,
Cresson, Pa.**

This historic house was owned by a small, local nonprofit that hoped to rehabilitate it as a house museum. However, after working for years to raise funds and receiving a demolition order from the municipality as a result of its deteriorated condition, they decided that a change in ownership was needed to preserve the building. The building is now being rehabilitated privately as a residence.

Implications of a Change in Ownership

When considering ownership alternatives, you should understand that there are advantages and disadvantages to a variety of ownership scenarios. For instance, only a nonprofit or municipality will usually be eligible to receive grants; but only a for-profit entity such as a corporation or an individual is eligible for Rehabilitation Investment Tax Credits. There may also be tax considerations to keep in mind when considering ownership alternatives. For instance, a municipality may not support nonprofit ownership of a property if there is an alternative that will keep the property on the tax rolls.

Some historic buildings, such as house museums, belong to the public or hold collections on behalf of their communities. There are several legal and ethical concerns that should be taken into account when considering a change in ownership for a property that is publicly held or owned by a nonprofit or trust. There may be requirements that the property and/or collections remain in the public domain. In all cases, property should be deaccessioned in accordance with all applicable regulations and policies.

The following legal concerns need to be considered when planning a change in ownership for a historic building such as a house museum:

- Is the property restricted or held in trust?
- Are the collections restricted?
- Is there an endowment, and is it restricted?
- Will the organization need to seek the approval from heirs, the state Attorney General's office or a probate court?
- Will the organization's decision need to be guided by "public trust" considerations, and if so, how?

Consult with a qualified attorney to help answer these questions and assess the available options.

RESOURCES Today, owners of many historic sites and historic buildings are finding it necessary to close their doors. If you or your organization owns a historic property and need to close and/or find a new owner, please consult the following resources:

- ***Closing a House Museum: From Lemons to Lemonade***
<http://blog.preservationnation.org/2011/09/23/closing-a-house-museum-from-lemons-to-lemonade/>
- ***Historic House Closedown Checklist***
<http://blog.preservationnation.org/wp-content/uploads/2011/09/CloseDown-Checklist.pdf>
- ***Repurposing of a Historic House/Site***
<http://www.aaslh.org/documents/EthicsHNSpring09.pdf>

USE APPROPRIATE PRESERVATION TOOLS

Often, problems arise as a result of a lack of tools or resources to protect historic properties, or a lack of understanding about how those tools can be used. Therefore, it is important to learn about what tools are available to you. Because preservation projects are so varied, a wide range of tools can be utilized to advance them.

Most of these tools are established and enforced at the local level, with authority from the state. Local preservation tools include historic district and zoning ordinances, which can protect the character and integrity of historic properties, as well as property maintenance and public housing codes, which can require that properties be maintained and thus preserved. When properties are allowed to deteriorate, tools like blight ordinances or conservatorship acts may be necessary.

If there are historic properties that you care about in your community, it would be wise for you to speak with your town or city manager to understand what tools are in place, and which ones may need to be considered or added. Creating new ordinances takes a significant amount of time, and can rarely, if ever, be done in time to save a historic property that is already threatened. The best time to establish and improve your local preservation tools is before they are needed.

REALITY CHECK – THE POWER TO PRESERVE LIES AT THE LOCAL LEVEL

While federal and state regulations offer limited protection, local municipal ordinances can substantially protect historic resources.

State enabling legislation provides different authorities to municipalities, so contact your State Historic Preservation Office or statewide preservation nonprofit to learn more about the tools that are available to municipalities in your area.

RESOURCES

PRESERVATION PROBLEM

Demolition	Vacancy	Deterioration	Inappropriate Alteration	Changing Setting	Financial Challenges	Changing Demographics
POTENTIAL TOOLS and STRATEGIES						
Demolition Ordinance Historic District Ordinance Local Zoning Ordinance Injunction Community Outreach Local, State or National Endangered Property List	Vacant Property Ordinance Market Assessment Advertising / Marketing Diversified Programming Eminent Domain	Property Maintenance Code Public Housing Code (or Rental Property Ordinance) Community Outreach Anti-Blight Ordinance (or Conservatorship)	Historic District Ordinance (or Zoning Ordinance) Section 106 of the National Historic Preservation Act (for properties or projects using federal funding or requiring federal permits) Community Outreach	Local Zoning Ordinance State History Code or Preservation Regulations Section 106 of the National Historic Preservation Act Community Outreach Local, State or National Endangered Property List	Strategic or Business Plan Fundraising Plan Diversified Programming	Community Outreach Diversified Programming Local, State or National Endangered Property List

UNDERSTAND FEDERAL REGULATIONS

Historic resources are protected to some extent from governmental actions at the federal level. In general, these regulations provide a process that requires that impact to historic resources be considered, but do not require preservation every time. They are intended to balance preservation concerns with other governmental objectives. Three major laws protect historic resources from federal government actions, including activities funded or licensed by federal agencies.

National Historic Preservation Act

The National Historic Preservation Act authorizes the National Register of Historic Places, establishes a protective review process commonly known as the Section 106 review process, and requires federal agencies to identify, inventory, use and preserve historic properties.

The Section 106 review process ensures that federal agencies consider the effects of federally licensed, assisted, regulated or funded activities on historic properties listed in or eligible for listing in the National Register of Historic Places. While Section 106 is an effective tool, it does not prevent federal agencies from taking actions that ultimately harm historic resources. Section 106 only requires that federal agencies comply with certain procedural requirements before issuing a permit or funding a project affecting historic resources.

National Environmental Policy Act

As its name suggests, the National Environmental Policy Act (NEPA) is an environmental law. But it governs major federal agency actions affecting properties listed in the National Register of Historic Places in addition to natural resources. Much like Section 106 of the National Historic Preservation Act, NEPA provides only procedural protection against potentially harmful federal agency actions.

Department of Transportation Act

Section 4(f) of the Department of Transportation Act is the strongest preservation law at the federal level. It provides substantive protection for historic properties by prohibiting federal approval or funding of transportation projects that use (take or substantially impair) any historic site unless there is no feasible and prudent alternative to the project and the project includes all possible planning to minimize harm to the historic resource.

Other federal regulations also exist to protect historic resources from federal actions. They are typically limited to a particular agency or project type, and are not as commonly used as the three mentioned here.

CHANGING ENVIRONMENT

Some historic properties are threatened by changes to the environment around them. In the example shown below, an access road for a new natural gas pipeline will undoubtedly compromise the setting of this (underutilized) log house.

Federal regulations require that projects utilizing federal money or requiring federal permits consider their impact on properties that are eligible for or included in the National Register of Historic Places. These regulations do not prohibit impacts, but require that alternatives be considered in an attempt to avoid or minimize impacts, and that adverse effects be mitigated. These regulations do not apply to privately funded projects; but if state funding or permits are required, state regulations may help to protect historic properties. Local zoning ordinances can also provide a great deal of protection to the setting around historic properties.



REALITY CHECK – HISTORIC RESOURCE SURVEY

Federal regulations only apply to properties that have been determined eligible for or listed in the National Register of Historic Places. Agencies are required to identify historic properties that may be impacted by their undertakings; however, significant properties are often overlooked during this process. If there are important properties (buildings, structures or districts) in your area, make sure that they have been documented and evaluated by your State Historic Preservation Office. This will help to ensure that they are taken into consideration by federal agencies whose undertakings may impact them.

RESOURCES

- *A Layperson's Guide to Preservation Law: Federal, State, and Local Laws Governing Historic Resources* available online at Amazon.com
- *National Historic Preservation Act* http://www.cr.nps.gov/local-law/FHPL_HistPrsvt.pdf
- *Section 106 Advisory Council on Historic Preservation's Protecting Historic Properties: A Citizen's Guide to Section 106 Review* <http://www.achp.gov/docs/CitizenGuide.pdf>
- *Department of Transportation Act - Section 4(f)* http://www.cr.nps.gov/local-law/FHPL_DOTAct.pdf

APPLY STATE AND LOCAL REGULATIONS

Historic preservation laws governing private actions generally exist on the state or local level. They protect historic resources by regulating demolition or alterations that could destroy or impair significant features of the property. These laws do not prohibit change altogether but establish a mechanism for review to ensure that the integrity of the resource is not compromised.

Contact your State Historic Preservation Office or statewide nonprofit preservation organization to learn more about state regulations that may exist to help protect historic properties in your area.

Historic resources are most often protected at the local level through historic preservation ordinances. These laws typically provide a much stronger level of protection for historic resources than the procedural protections that apply to government actions.

The best preservation programs have a strong correlation between historic preservation ordinances and other land use programs such as comprehensive planning, zoning and subdivision regulations. To ensure preservation of the places that matter to you, work with your municipality to ensure that all of your local ordinances support preservation.



PRESERVATION TOOLS

In Pennsylvania, the State Historic Preservation Office recognizes the effectiveness of legal tools, and places a restrictive covenant on each of the historic properties that receive funding through their agency. This ensures that the property is preserved for at least 15 years after public money is spent on rehabilitation.

UTILIZE AVAILABLE LEGAL TOOLS

Injunction

An injunction is a court order that requires an individual to do or not do a specific action. The purpose of an injunction is to stop the defendant from acting in a harmful way until further judicial proceedings are available. Injunctions are used only in cases where taking specific action is required in order to prevent possible injustice and where monetary damages are not able to compensate for the plaintiff's violation of rights if an injunction is not granted. Courts can issue preliminary injunctions to take effect immediately and remain in effect until a decision is made on a permanent injunction, which can stay in effect indefinitely or until certain conditions are met. Failure to comply with an injunction is punishable by being held in contempt of court.

In historic preservation, injunctions are sometimes used to prevent demolition while other alternatives can be explored. When considering filing an injunction, recognize that there will be legal fees, and in many jurisdictions, plaintiffs demanding an injunction are required to post a bond. The amount of that bond varies but is often in the tens of thousands of dollars.

Deed Restrictions

Deed restrictions are stipulations contained within a property's deed regarding certain treatment or use of the property. Since these restrictions are actually part of the deed, they must continue to be honored when the property is sold. Any future owner is obligated to comply with the provisions contained in the restriction.

Deed restrictions can be used to regulate modifications to a historic structure or limit the types of activity permitted on the property beyond that regulated through zoning. Deed restrictions are considered private matters and are, thus, typically enforced by neighborhood associations or private citizens in civil court.

Preservation Easements

A historic preservation easement is a legal agreement between the owner of a historic property and another party that enables a historic property owner to establish certain preservation restrictions while retaining possession and use of the property. Because they are foregoing some of their property rights by committing to the preservation easement, the property owner may be eligible for tax benefits when they donate a historic preservation easement in perpetuity to a qualified 501(c)3 nonprofit charitable organization. Once donated, a preservation easement becomes part of the property's chain of title and permanently remains with the historic property, binding both the present and future owners.

There are two general types of historic preservation easements: facade and interior space. Facade preservation easements can permanently prevent demolition, neglect and insensitive alterations to the exterior facade of a certified historic structure. Interior space preservation easements can permanently prevent demolition, neglect and insensitive alterations to a specified interior space of a certified historic structure.

Conclusion

EVALUATE THE PROJECT

This four-part document was intended to provide you with information and tools that you may need to make informed decisions about your historic preservation project. Section 1 discussed the importance of understanding the problem and how to build support for your effort. Section 2 was intended to provide additional information about your building, and what your rehabilitation project will likely entail. Section 3 talked about the need to consider a wide range of alternatives for the historic property, and use appropriate tools to move the project forward. And, finally, Section 4 provided an overview of the financial considerations associated with historic preservation projects.

By now, you have defined the problem and understand how the community feels about it. You understand the building's significance and condition, and recognize its cultural, environmental and economic value. You understand the requirements associated with making changes to its use, as well as the costs associated with doing so. You have assessed where the necessary funds will come from and have an idea of whether or not the new use will be sustainable.

So now you can make a responsible decision about whether to take on this preservation project. Is the building important to you? Is there a reasonable chance that you will be successful and able to sustain the project over time? If so, go for it!

Our goal is not to discourage you from embarking on a project, but rather to encourage you to think it all the way through before jumping in. In most cases, if there was an easy solution the project would already be done. The historic properties that need our help are those where there isn't an easy answer. That doesn't mean that you shouldn't attempt the project. Just approach it in a logical manner, and think it through carefully. With some creativity and a lot of hard work, many preservation projects are accomplished every year.

Each year, Preservation Pennsylvania works with its partners to recognize preservation projects with awards. And each year we are stunned by how much good work is happening and the challenges that are being overcome along the way. Check with your state or local nonprofit or your State Historic Preservation Office to see if there are preservation awards in your area.



Saving historic properties is often a slow process, and one that requires creativity and persistence. Don't get discouraged if your project takes time. In fact, assume it will take at least twice (if not three times) as long as you think it should. While some properties are rehabilitated in just a year or two, it is not uncommon for projects led by individuals or volunteer-based organizations, among others, to take ten years or more. Realize that historic preservation is a marathon not a sprint, and pace yourself accordingly. For lengthy or phased projects, remember that cyclical maintenance and repairs may be required even before the project is complete.

Good luck with your historic preservation project. Don't hesitate to reach out to your partners at your local and state preservation nonprofit, your State Historic Preservation office and the National Park Service if you need help along the way.

REALITY CHECK

Nothing is ever really "saved." Ongoing maintenance is critical to sustaining historic properties. Vacancy and deferred maintenance commonly results in the endangerment of historic properties. Even some well-intentioned property owners are guilty of allowing demolition by neglect.



preservation
PENNSYLVANIA

257 North Street
Harrisburg, PA 17101
717.234.2310