

# Preservation Tools for Wyoming

Created November 2022

Prepared for  
Sheridan Community Land Trust



Sheridan  
Community  
LAND TRUST  
Conservation | History | Recreation

*Connecting people to land and history*

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With the generous support from The 1772 Foundation

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## INTRODUCTION

The Sheridan Community Land Trust was established in 2006 in response to a city/county needs assessment. Community members expressed a strong interest in land conservation, historic preservation, recreational access, and the protection of working landscapes, predominantly ranches. The land trust's mission closely aligns with those expressed concerns and reads that the land trust, "works to preserve our heritage of open spaces, healthy rivers and creeks, working ranches, wildlife habitat, and vibrant history, while expanding recreation opportunities to connection people with the places that love." The land trust holds both conservation and preservation easements, develops and promotes outdoor recreation and interpretive historic trails, provides educational programming, and advocates for general and site-specific conservation and preservation issues.

In 2020 the land trust issued a Request for Proposals (RFP) for a study of preservation tools to include a broad overview of tools used across the country, and a more focused investigation of tools well suited to Wyoming. The language in the RFP is purposely broad and allows for a wide range of responses. While this preliminary draft is broad, it may not be exhaustive. Nonetheless it outlines a number of tools and strategies that could be adopted by the land trust or others in the pursuit of preservation in Wyoming.

In exploring preservation tools it is important to understand that preservation itself is a term with sometimes conflicting connotations. In recent years the preservation community as a whole has begun to dismantle some of the structural biases inherent in some older preservation programs and methodologies, embracing the contradictions and conflict in different views of what is significant, how places and stories are researched and documented, what values are celebrated, and how places are saved or not saved. It is an exciting time to be involved in the preservation field and a good time for organizations to look carefully and closely at their preservation programs and goals.

A draft of this study was presented to the Sheridan Land Trust in the summer of 2022. In August 2022, a public presentation was given in Sheridan to explore the tools outlined in the report and to solicit feedback. The presentation was taped and posted online with a survey to solicit additional feedback from members of the public who had been unable to attend the presentation in person. Based on feedback, the three tools most suited to Wyoming are lectures and workshops, smart growth policies, and heritage areas.

Tool	Yes	No	Total
holistic asset mapping	8	3	5
crowdsourcing data	0	5	-5
new historic contexts	5	2	3
statewide designation	8	2	6
conversations about criteria for special types of sites	5	3	2
local preservation ordinances for designation and design review	10	5	5
local preservation ordinances for archaeology	4	5	-1
local preservation ordinances for demolition by neglect	3	7	-4
Zoning	5	7	-2
smart growth policies	11	1	10
state level environmental review	4	6	-2
easements and covenants	8	2	6
Mothballing	3	3	0
heritage areas	11	2	9
land banks	2	1	1
resident curators	9	3	6
land trusts	8	1	7
whole campus partnerships	0	1	-1
revolving funds	3	1	2
historic trades	5	2	3
veterans curator programs	1	2	-1
outreach to nontraditional audiences	4	1	3
most endangered lists	7	2	5
targeted studies	5	1	4
lectures and workshops	12	1	11
technology-based outreach	2	1	1
tax credits and syndication	4	5	-1
property tax deferral	8	3	5
transfer of development rights	5	3	2
program-related investments	1	1	0

*Public input results ranking tools that would be “the best fit” for Wyoming*

The first part of the study that follows examines governmental infrastructure. Government at the federal, state, and local levels has existing programs and tools in place that may be unknown or underutilized. In addition to exploring new tools, it is important to exercise opportunities that are already in place. The second part of the study examines tools that fall within the traditional methodology of the identification, evaluation, and treatment of resources. The third section explores some avenues for organizational and cooperative ventures that can support preservation. The fourth section presents some models for outreach and education that support preservation. And the final section lists some financial tools for preservation.

## **GOVERNMENT INFRASTRUCTURE**

Historic preservation operates in a number of contexts. One of the more significant of those are federal, state, and local government laws and programs that impact issues from land use to revenue. Legislatively created programs create tools whose efficacy often relies on the public's understanding and use of them.

### **Selected Federal Government Preservation Programs and Tools**

There are numerous preservation responsibilities given to the federal government. The review of federal programs that follows is not exhaustive, but covers those programs and areas most relevant to this study. Many of these responsibilities are laid out in the National Historic Preservation Act (NHPA) of 1966. There is significant earlier preservation-related federal legislation, notably the Antiquities Act of 1906, which allowed for an administrative vehicle for the designation of national monuments and enacted safeguards for archaeological deposits on federal lands, and the Historic Sites Act of 1935, which was the impetus for the National Historic Landmarks program (NHL). Most of the federal and state government preservation infrastructure in operation today, however has its roots in the NHPA. The act established State Historic Preservation Offices (SHPOs), Tribal Historic Preservation Offices (THPO), and the National Register of Historic Places. It laid out requirements for federal agencies to survey and inventory their historic resources (Section 110), and created a process for the review and mitigation of adverse effects on historic properties as a result of federal undertakings (Section 106).

National Historic Landmarks (NHL) are buildings, objects, structures, districts, and sites that must meet certain standards for significance and integrity. The primary difference between NHLs and National Register properties, in addition to the process of preparation review, is that these properties must be significant at a national level (as opposed to a state or local level). Potential NHLs are often discovered and documented through national theme studies sponsored by the National Park Service, which provides a thematic context to identify document numerous sites related to national themes and to analyze them within a larger context. Properties designated as NHLs are automatically listed on the National Register of Historic Places. The process for designation is largely administered at the federal level.

The National Register of Historic Places (National Register) is defined as "the official list of the Nation's historic places worthy of preservation . . . (and is) part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources." As with NHLs, types of properties that can be listed are buildings, objects, structures, districts, and sites. Properties must meet certain standards for significance and integrity. The administration for this program is shared between the federal

government through the National Park Service, and the SHPO or THPO. Listing on the National Register does not abridge any private property rights or regulate listed properties. It does not require a property to be open to the public. It can be a requirement for certain financial incentives such as grants and tax credit programs. Listing on the Register *and the eligibility for listing* can trigger federal agency responsibilities in regard to their own actions.

Under Section 110 of the NHPA, each federal agency is to establish a historic preservation program charged with the identification, evaluation, designation, and treatment of historic properties owned or controlled by the agency. Guidelines were originally published in 1988 and revised in 1992. Given the sheer scope of federal land ownership in Wyoming, there should be a correspondingly large effort to identify resources. While not all resource data is open to public review for reasons as varied as national security and potential damage to archaeological remains, nonetheless the data should be collected systematically and regularly updated to reflect resource loss or resources that have aged into being considered historic. Reaching out to federal agencies, creating relationships with senior staff, and providing support for preservation can help reinforce the importance of the agency's 110 responsibilities and create opportunities for improved communication and collaboration.

Section 106 of the National Historic Preservation Act requires a review of federal undertakings that involves establishing an Area of Potential Affect (APE), identifying any historic resources within the APE, determining if the undertaking will have an effect on the resources and if so if the effect will be adverse or not, and if the effect is adverse, finding ways to mitigate the effect. Review is often coordinated with requirements of the National Environmental Policy Act (NEPA), which requires a review of the environmental impact of federal actions. A federal undertaking is a broad concept extending far beyond an agency's actions on its own property to include federal grants, loan guarantees, licenses, and permits among other activities. While 106 responsibilities are ultimately that of the specific agency involved, agreements will often assign them to a designee such as a state department of transportation, which may receive billions of dollars in federal funding. Some of the process is managed by the State Historic Preservation Office. In theory, the process should actively involve and engage consulting parties that can include tribes, local governments, and historic preservation organizations. These consulting parties have some capacity to comment on and impact the process at each step.

One best practice adopted by The Maryland Historical Trust (Maryland SHPO) is a public, web-based database of ongoing review projects. Anyone can search the database on the MHT's website by project address, project number, MHT log number, submittal date, county, or federal agency. The Wyoming SHPO also provides transparency by posting online their Programmatic Agreements with federal agencies that streamline their review process.

Participation in the 106 process is not guaranteed, and those who wish to gain consulting party status need to have a connection to the undertaking or resources. The federal Advisory Council on Historic Preservation also plays an education and oversight role. They have an active online

case map of educational material and success stories, including one highlighting a creative mitigation of adverse impact of gas and power projects on Bureau of Land Management controlled property in Sublette County. The 106 process resulted in the establishment of the establishment of the New Fork River Crossing Historical Park.

The U. S. Department of Transportation Act of 1996 has a provision in Section 4f that is somewhat like Section 106 of the NHPA, though more stringent. While 106 requires a process designed to assess impacts and mitigate adverse impacts to historic resources, the Transportation Act has a higher standard that allows projects to go forward only if there is "no feasible and prudent alternative" and the project "includes all possible planning to minimize harm resulting from the use." The higher standard appears to reflect the expanded capacity of transportation projects specifically, notably federally funded road projects, to impact large swaths of the American landscape including historic places.

Specific archaeological protections can be found in the Archaeological Resources Protection Act (ARPA) of 1979, which expands issues addressed in the earlier Antiquities Act regulating archeological excavations on federal and native lands. It provided clearer definitions for looting and vandalism of archaeological sites and resources, and enumerated penalties for the same. It also establishes standards for curation of excavated artifacts. The Native American Graves Protection and Repatriation Act (NAGPRA) governs the protection and repatriation of Native American remains and funerary objects on federal and native lands. American Indian Religious Freedom Act (AIRFA) includes provisions for the protection of Native American Sacred Sites, allowing access to said sites and maintaining the confidentiality of the sites' location.

Other federal programs, such as those enacted by executive order and grant programs with variable funding sources, are "on the books" but are not always funded or active or are vulnerable to reversal through executive order.

The federal tax code has included a provision for historic rehabilitation tax credits since 1977. In order to use the federal credit, a project must meet several tests: the building must be historic and income-producing, the cost must be substantial, and the work must meet the Secretary of the Interior's Standards for Rehabilitation. "Historic" means the building is on or eligible for listing on the National Register, either individually or as contributing to a district. "Income producing" is a specific term defined by the Internal Revenue Service, but generally means that there needs to be some revenue derived from it and that the building is depreciable. The work must be substantial with costs in excess of \$5,000 or the adjusted basis in the building, and the work must be reviewed by the State Historic Preservation Office and the National Park service to insure it complies with certain standards designed to protect the building's historic fabric. A completed project can provide the owner with a credit against federal tax liability equal to 20% of the eligible rehabilitation costs.

## **Selected State Government Preservation Programs and Tools**

The Wyoming SHPO, housed in the Wyoming Department of State Parks and Cultural Resources, has responsibilities to administer and/or participate in various federal preservation programs including the National Register, federal rehabilitation tax credits, and project review under Section 106. State statute directs the appointment of the state archaeologist and provides for the acquisition of historic sites through various means including options, but excluding eminent domain. The SHPO develops historic contexts to aid in the evaluation and treatment of resources and creates the state's historic preservation plan.

The SHPO partners with numerous agencies to administer the Wyoming Centennial Farm & Ranch program, which documents and celebrates families who have farmed or ranched the same property for more than 100 years. The SHPO also participates in the Wyoming Archaeological Site Stewardship Program, which partners volunteers with preservation professionals to monitor archaeological sites statewide. In addition to documentation, the volunteers monitor the sites to deter vandalism and looting and file reports when they find evidence of such damage.

Wyoming state preservation statutes are heavily geared toward archaeology. The Wyoming Antiquities Act of 1935, found in Title 36 of the Wyoming Statutes, is designed to protect archaeological resources and sets a requirement for a permit to excavate on state or federal lands, forbids the removal of artifacts from the state without express permission, and outlines penalties for noncompliance. The Wyoming Environmental Quality Act of 1973 also has preservation provisions in connection with the application for mining permits. If an operation would "irreparably harm, destroy, or materially impair any area that has been designated by the (environmental quality) council a rare or uncommon area and having particular historical, archaeological, wildlife, surface geological, botanical or scenic value," a permit can be denied. The environmental quality council is charged with designating such sites. Wyoming does not have a state-level historic designation program beyond the "rare and uncommon area" process mentioned above.

## **Selected Local Government Preservation Programs and Tools**

Wyoming has had a constitutional amendment providing for home rule for municipalities since 1972, though some aspects of that proviso are not entirely clear. Generally, it means that unlike in so-called Dillon's Rule states, where local government may only exercise power and establish programs with the express consent of the state through enabling legislation, in home rule states local governments may generally develop programs and policies unless expressly prohibited by the state. Because of this, many programs that are difficult to create in Dillon's Rule states absent enabling legislation may be more easily adopted by municipalities in Wyoming.

The federal and state governments coordinate with a number of municipalities that are part of the Certified Local Government (CLG) program. Twenty-two local governments participate in this program, which requires the local government to have a local preservation commission, to have

enacted a local preservation ordinance, to compile an inventory of historic properties, to conduct a program that involves the public, and to file an annual report. Certification allows local commissions to review and comment on proposed National Register nominations and apply for federal pass-through grants. Wyoming has 22 CLGs.

In 1975, the Wyoming Legislature enacted the State Land Use Planning Act (WS 9-8-101 through 9-8-302), which mandates the preparation and adoption of countywide land use plans. Comprehensive plans consist of maps, policies, goals, and actions, as well as providing a blueprint or vision for how a community or region should grow. The adoption of implementation techniques, such as zoning, remains voluntary. Cities and towns may also develop their own plans or work cooperatively with the county. Without zoning to enforce development regulation, development need not be consistent with the plan.

Comprehensive plans may include a preservation section. In some places, independent preservation plan documents have been adopted as part of or as a companion to the local comprehensive plan. Successful plans include public participation to shape overall policies and to build constituencies of support for the final project. Preservation plans often include a narrative outlining the community's history and physical development; an overview of past preservation efforts; an overview of historic and cultural resources in an inventory including designations as applicable; and goals, objectives, and actions.

In Wyoming, local governments may designate historic properties. With designation generally comes some level of oversight and design review that may be advisory only or may be regulatory. This contrasts with federal designation, which neither abridges private property rights nor protects historic resources.

## **METHODOLOGICAL TOOLS**

It has been said that historic preservation methodology can be reduced to three actions: Identify, Evaluate, and Treat. Resources are identified by mapping, photography, and documentation, often through coordinated survey efforts. Programs like the National Register provide guidelines to evaluate resources to determine if they meet specific criteria and merit further attention in a preservation context. Those resources that do meet criteria are then subjects to a broad range of preservation treatments.

### **Identification**

Asset mapping or survey is generally the foundation of historic preservation. An understanding of what resources exist on the landscape and where they are located allows government and citizens and businesses to make informed decisions about land use, interpretation, and a myriad of other types of decisions that can have an impact on cultural and historic resources. Basic survey involves drawing maps that show resources in geographic context and in a site plan format. With the advent of Geographical Information Systems (GIS) and online applications for crowdsourcing and geo-referencing data, surveys have expanded to provide historic physical contexts and analysis based on survey designs.

For example, using a GIS layer of redline mapping, a historic program that promoted investment in largely white communities, with data about historic designations and real estate market data, one can better understand how disinvestment in minority communities has undercut their capacity to flourish, and see patterns of preservation efforts through the lens of race.

Composite mapping that combines preservation data with layers noting other values such as environmentally sensitive land can help illustrate preservation and conservation priorities to government officials and funders by demonstrating in powerful visual terms where those multivalent places exist in the community.

Crowdsourced data from the public can also provide insight. Such information should be reviewed and vetted for accuracy, but residents often have insights into cultural significance that extends beyond aesthetics and age and that may not be readily apparent to contractors, consultants, or other outsiders.

Asset mapping can be used as a basic educational tool by providing access to maps with hyperlinked photos and text. It can also be used as a basis for evaluation and designation.

Macon/Bibb, Georgia, inspired by neighboring Madison County's Greenprint program, developed a Saving Places Initiative that combined available map data from current and historic

sources combined with local input to find areas in the community that captured historic, cultural, environmental, and recreational values. Similarly, in 2018 the Commonwealth of Virginia launched Conserve Virginia, a cross-agency effort to map areas under six values: Agriculture & Forestry; Natural Habitat & Ecosystem Diversity; Floodplains & Flooding Resilience; Cultural & Historic Preservation; Scenic Preservation; and Protected Landscapes Resilience. This effort gives state government the resources to make data-driven decisions prioritizing investments in real estate protection.

## **Evaluation**

Most preservation evaluations are modeled after the National Register of Historic Places. The criteria are clear and definitive, yet open to some interpretation. However, in recent years evaluation tools like the National Register have come under fire for being elitist. Some complaints have more to do with how evaluation tools are used more than with the tools themselves, noting for example disproportionately low numbers of designations of resources relating to BIPOC (Black, Indigenous, and people of color) history. This can be addressed by directing resources toward inventory and evaluation of resources associated with under-represented communities.

More critical may be inherent biases in issues of evaluation concerning issues of aspects of integrity, or the ability of a property to communicate its historic appearance, that may not account for cultural differences in how resources are treated and valued. Thus, it is useful to examine existing and proposed processes for evaluation and to strive for participation by nontraditional audiences to shape evaluation criteria to be as objective and as inclusive as possible. There is greater flexibility in this regard in designing local designation criteria and processes. Local designation can thus be a powerful tool in creating balance and equity in historic preservation.

## **Treatment**

Of the three aspects for traditional methodology, treatment is broadest, encompassing legislative, legal, and physical solutions.

### Local Ordinances

While most local ordinances that address preservation generally relate to the built environment, structures and perhaps landscapes, fewer local preservation ordinances address archaeological resources. One of the first local government efforts to address archaeology was in Alexandria, Virginia, which established the Alexandria Archaeological Commission in 1975. The city hired professional archaeological staff in the 1980s. In 1989 the local government passed an Archaeological Resource Protection Code, the first in the country. The code is also one of the few that covers the entire municipality, not just certain designated areas. The city staff used existing reports and data to determine areas where deposits are most likely, and have developed a

process tied to permitting and development to use a tiered approach in terms of developer obligations. The code generally requires the private sector developer to hire professionals for site investigations and reports. Given the scope and scale of development in the area, the code has shifted the program from a proactive approach to a reactive one, but city staff are responsible for reviewing scopes of work and contractors' products, and take a more active role in government-initiated projects. Projects conducted under the ordinance have informed historic markers, public art, and in some case preservation of highly significant areas. Today at least fifty-four local governments across the country have some form of local archaeological ordinance.

Another option at the local level is a Demolition by Neglect ordinance. "Demolition by neglect" is the practice of not maintaining a building or structure until the deferred maintenance is such that the building is structurally unsound or a threat to public safety. By neglecting the building, a property owner can apply for a demolition permit for the building, preempting restrictions that accompany local preservation ordinances by arguing that the building is unsafe. A demolition by neglect ordinance requires property owners to maintain buildings to a specific standard in order to avoid the deterioration of the building. Penalties for noncompliance can include fines and/or having the municipality assume responsibility for maintenance and charging the owner for the same. Ordinances should clearly explain what level of deterioration would initiate municipal action; the process for notification; evidence needed to establish a deteriorated state; how a case from demolition by neglect would be heard and decided; a process for appeals; a provision for economic hardship and how that would be determined; and remedies and/or penalties.

### Zoning

While local zoning is optional in the State of Wyoming, it can be a useful preservation tool if properly employed. Preservation zoning is generally considered an overlay zone—that is, a zoning area that overlays an existing zoning category that addresses issues that the preservation zoning does not, such as uses. Courts have upheld the legality of historic overlay zoning. The more successful of these ordinances designate a specific area, justify the boundary, and set forth a process of design review. Because ordinances can be cumbersome to revise and adopt, design guidelines are generally referenced in the ordinance but not included verbatim, allowing for easier adjustment.

### Smart Growth Policies

“Smart growth” is an umbrella term that describes policies and programs designed to address the adverse impacts of sprawl development by conserving open space, protecting natural and historic resources, reducing adverse impacts to air and water quality, and focusing on ways to grow and develop by maximizing existing infrastructure. While private sector developers can adopt these principles, they are generally seen at the municipal or regional government level, and often at the direction of state-level policies and laws.

The state of Maryland has been a national leader in smart growth program and legislation. The Economic Growth, Resource Protection and Planning Act of 1992 (Planning Act) requires local comprehensive plans to reflect seven visions outlined in the act; to encourage growth in designated areas by addressing regulatory barriers; and to designate sensitive areas and outline policies to protect them from development and its adverse effects. The state also adopted policies to reflect smart growth principles that focus new development in "priority funding areas" that generally have capacity and preexisting infrastructure and to fund and support the programs that reinforce smart growth policies. Reinvesting in areas that are already developed protects open space, cultural landscapes, working farms and ranches, and archaeological sites. It can also spur policies for the adaptive use of historic resources, saving the embodied energy in buildings, amortizing the financial and environmental impacts of its construction over a longer period, and minimizing landfill deposits.

### State Environmental Review/Project Review

Environmental review or project review at the state level ranges greatly across the country in terms of scope and content. The Wyoming Environmental Quality Act addresses "rare and uncommon places of historical and archaeological value," but only in reference to mining permits. It is estimated that less than one percent of the state has been so designated by the state's environmental quality council. If an operation would "irreparably harm, destroy, or materially impair any area that has been designated by the council a rare or uncommon area and having particular historical, archaeological, wildlife, surface geological, botanical or scenic value," a permit can be denied.

An example of a more expansive state-level review process that involves preservation is the California Environmental Quality Act (CEQA). It applies to all projects requiring approval by state and local public agencies, excluding projects that have statutory or categorical exemptions or where a government agency has a ministerial review (not a discretionary review). The act applies to projects that may have a physical impact. It can extend to more general and abstract processes including zoning ordinances, variances, subdivisions, and other local land use decisions as well as projects undertaken directly by a public agency. The act requires the lead agency to determine if a project would have an adverse effect on the environment, and specifically in the case of preservation, properties listed on, or eligible for listing on the California Register; and, if so, whether that effect can be reduced or eliminated by pursuing an alternative course of action or through mitigation. Agencies are required to develop their own CEQA processes that include opportunities for public participation.

## Easements and Covenants

Among the most effective private sector legal tools are easements and covenants. In a preservation context, both are specific legal agreements concerning the future use and treatment of historic resources. A covenant can be described as a contract, while an easement is the permanent separation and transfer of specific property rights to a third party. Though different in design they are legal, private-sector methods to effect permanent preservation of specific values. In cases where one of these tools could limit future development rights in perpetuity, there is often a related diminution in a property's resale and development value. This change in value can have significant tax implications. A reduced value, once demonstrated to a local assessor, can result in a reduced property tax liability. Additionally, and particularly important for farms and ranches in rapidly developing areas, any easement or covenant that reduces the future development potential can result in a lower estate tax liability. Estate taxes on historic farms have often forced executors and heirs to sell or subdivide to meet the estate tax liability. For both tools, the property owner needs an outside party to hold and enforce the easement or to be a party to the covenant.

## Mothballing

One approach to an individual building without a current use is to "mothball" the building. Preservation is often cast as an "all or nothing" situation and when resources and uses are not readily available, buildings may be demolished or left to deteriorate without considering an interim solution. The National Park Service describes the context for what is referred to as mothballing a historic building: "When all means of finding a productive use for a historic building have been exhausted or when funds are not currently available to put a deteriorating structure into a useable condition, it may be necessary to close up the building temporarily to protect it from the weather as well as to secure it from vandalism." The process includes the documenting the significance and condition of the building; stabilizing the building, including addressing structural issues, exterminating pests, and securing the building envelope from water or animal infestation; and "mothballing" by preventing vandalism, providing ventilation, adjusting utilities, and regularly monitoring the building providing maintenance as needed. Mothballing buildings removes them from active use, reduces building operating expenses, generally eliminates building revenue, protects the historic fabric and features, and preserves the building for future use.

## **ORGANIZATIONAL TOOLS**

Organizational tools are broader than methodological tools and address how larger systems can achieve preservation goals through creating specific types of entities and/or partnerships.

### Heritage Areas

National Heritage Areas are defined as "places where historic, cultural, and natural resources combine to form cohesive, nationally important landscapes." Large regional landscapes are generally not government-owned, but rather living landscapes that usually include active communities. Normally National Heritage Areas are the result of a feasibility study followed by a legislative designation and a management plan. The governance and responsibilities of these areas are not specifically prescribed, and that flexibility allows for a variety of management models and priorities from preservation to research, heritage tourism, promotion, cross-organizational collaboration, education, and interpretation. National Heritage Areas do not abridge private property rights. The designation allows for assistance and financial support through the National Park Service to achieve desired goals. Heritage Areas are a grassroots, locally driven process designed to acknowledge and assist regions with a significant and distinct cultural landscapes.

In addition to funding, one of the greatest benefits of a heritage area is the coordination of numerous parties including but not limited to parks, historic sites, museums, historic communities, tourist attractions, and educational organizations, around common themes and goals, improving communication, and creating an infrastructure for collaborations that are mutually supportive.

Though the federal program has specific benchmarks and requirements, the term "heritage area" has been adopted by other groups that embrace the philosophy but have not or cannot get official National Heritage Areas status. New York, Maryland, and Pennsylvania have all adopted the model for a system of statewide heritage areas.

### Landbanks

Seventeen states have enabling legislation that allows for the creation of landbanks, which are nonprofits or quasi-governmental agencies that acquire, amass, hold, and sometimes develop real estate to address broader community goals. Landbanks often acquire abandoned and tax delinquent properties, and in some states have the ability to clear titles and liens. Other states allow landbanks the opportunity to acquire parcels before they are offered at public auction.

Landbanks operate to support public purposes such as acquiring properties in flood-prone areas to return them to passive uses such as parks, or to assemble properties and parcels to be used for affordable housing. Landbanks take distressed properties and work to return them to public use. While not preservation organizations per se, landbanks often work with developers, redevelopment authorities, municipalities, and other nonprofits to acquire properties and return them to productive uses. As such they could be valuable allies to preservation nonprofits, having specific powers to acquire properties and pass them along with clear titles and released liens to new owners.

### Resident Curators

One solution for vacant historic buildings in need of rehabilitation or extensive maintenance is a Resident Curator program. Resident curatorships are generally a form of long-term lease of a historic property, usually by a government agency or a nonprofit organization, to a tenant at a nominal in exchange for the repair and maintenance of the property.

Maryland established the first statewide resident curatorship program in 1982 in response to a proposal by a couple who were interested in restoring and living in a stone farmhouse located in a park in Baltimore County. The program has since been formalized, has operated more than 50 curatorships, and has been a model for Maryland state parks in the DC metro area operated by Maryland-National Capital Park and Planning Commission.

Massachusetts created a resident curatorship through legislation in 1994 that requires separate legislative approval for each curatorship. In 2004 the state of Delaware established a program through the state Division and Parks and Recreation. In 2006 Vermont had three state park buildings converted to resident curatorships. Pennsylvania has also considered curatorships at a handful of properties. Connecticut established a state program in 2010 that allows lessees to be individuals or organizations with a 20- to 35-year lease and mandatory public access to the building twice a year and general access to the land. In 2011 Virginia's legislature passed enabling legislation that allowed localities to operate resident curatorship programs, and subsequently Fairfax County (2017) and Loudoun County created programs. New Jersey has attempted to pass state legislation to support a program.

In all of these cases, the lessor is a unit of government offering leases to properties on state land, often park land. Programs have differing stipulations. Some only offer leases to nonprofit organizations or restrict commercial uses. Lease terms are generally long but can range from 20 with options to renew to life tenancies. Choosing which buildings will be leased involves balancing the impact of the proposed use with environmental and other interpretive goals. In Delaware potential lessees are vetted by a committee with representation from the state historic preservation office and the statewide preservation nonprofit, while other states make decisions within the government agency.

In all cases, oversight is necessary to ensure that the tenant makes the expected improvements within a certain period and to specific standards, generally the Secretary of the Interior's Standards for Rehabilitation. Some programs include regular inspections and annual accountings.

### Land Trusts

Land trusts are nonprofit organizations that acquire land or interests in land through easements to serve a variety of public purposes. Conservation land trusts generally focus on saving land from development for environmental purposes such as saving habitats or protecting water quality. The land trust movement has evolved to address specialized concerns such as farmland and battlefield lands. More recently there is a movement of community land trusts for affordable housing. These groups often use creative tools such as common or organizational land ownership, with participants having ground leases or real estate interests in residential units but not the underlying land, in order to provide housing, protect affordable units, and still allow resident owners to have a vehicle for capital appreciation.

### Whole Campus Partnerships

The preservation of large campuses presents the challenge of saving an entire collection of buildings and landscapes which have a shared significance. Seen most often with deaccessioned military bases such as the Presidio, Fort Monroe, and Fort Douglas, strategies learned from those conversions can be applied to schools and colleges as well. Each has involved an overarching management agency, preservation guidelines and standards, and public-private partnerships for adaptive use. In some cases the overarching agency is tasked primarily with redevelopment, but in other cases may take on roles of interpretation and programming.

### Revolving Funds/Threatened Property Programs

A revolving fund is a program that uses a pool of money to buy a property, protect it, and sell it, with the sale proceeds replenishing the fund for future purchases. The initial funding pool is re-used for new projects, making it a *revolving* fund. Revolving funds may have a strategic focus. Some revolving funds, particularly those operated by statewide organizations, have holdings and activities scattered over a broad area. They also often focus on securing the future of high style, "landmark" properties or properties that are pivotal for a specific community. Because the term "revolving fund" implies a large endowment of sorts, many preservation organizations avoid that term, opting to call it a "threatened properties program." Revolving funds operated by preservation nonprofits can be grouped into many categories. Three relevant ones are salesperson, developer, and lender.

Salesperson funds purchase options on historic properties. An option allows the organization to purchase a property at a set price for a specific period. The option is an expense, but during the time the option is in place the nonprofit does not own the property, thus has none of the associated liabilities. Neither, however, does it have control, and property owners may make

changes to the property during the option period. The nonprofit will market the property and find an ultimate buyer. When the buyer is found, the nonprofit exercises the option and then buys and resells the property, recovering the corpus, often during a single day. This process works well with statewide nonprofits that cover a larger geographic range and with large or complex properties that may tax the resources and capability of the nonprofit.

A developer fund buys a property in a fee simple real estate transaction. The nonprofit must maintain the property, insure it, pay utilities, make loan payments if it is mortgaged, and pay taxes until it is resold. The nonprofit may stabilize the property or make significant improvements. This scenario carries more risk but also more potential for return with the nonprofit, including a developer's fee in the pro forma and additional value that can increase the sales price. Among other risks, the property may not sell quickly, and the organization's capital may be tied up in the property for a considerable length of time.

Lender funds have a corpus of money they lend to property owners for the rehabilitation of historic properties, with the loan payments replenishing the corpus. The lending model is in some ways more complex, requiring applicant screening, consideration of loan security, development of default policies, an understanding of fair lending laws, creation of a consistent application process, and loan and project monitoring. The Preservation League of New York State used a one-time appropriation to develop a loan fund. It has a specific niche of providing bridge loans to organizations that have been awarded state preservation grants requiring capital outlay and reimbursement. The loans allow the nonprofit to proceed with a project and to repay loans with grant draws, easing overall cashflow.

## OUTREACH AND EDUCATIONAL TOOLS

Outreach and educational tools can accomplish several preservation goals. They can raise awareness of preservation issues. They can provide the public with the knowledge and tools to be effective preservationist on a hands-on or advocacy level. They can build support for specific preservation issues or for preservation more broadly. They can create and strengthen relationships with nontraditional partners to achieve mutual objectives. And they can use technology to engage the general public more effectively.

### Historic Trades

The lack of skilled tradespeople is a direct threat to preservation efforts across the country. Various continuing education programs such as the former Campbell Center for Historic Preservation Studies and the Cathedral of St. John the Divine have provided some hands-on training. But few accredited academic programs have thrived. The American College of the Building Arts in Charleston began in the aftermath of Hurricane Hugo in 1989. Growing from a patchwork of classes held in multiple sites, the school has consolidated its campus in the former Charleston Trolley Barn. In 2004 South Carolina Commission on Higher Education accredited its associate's and bachelor's degrees. Coursework focuses on Blacksmithing, Carpentry, Classical Architecture, Plaster, Stonecarving, and Timber Framing. Other academic programs include Belmont College, Bryn Athyn College, Bucks County Community College, Clatsop Community College, Edgecombe Community College, North Bennet Street School, Savannah Technical College, and the Thaddeus Stevens College of Technology.

The Campaign for Historic Trades was organized by Preservation Maryland to promote historic preservation trades across the country, by registering historic trades apprenticeships with the Department of Labor; creating open-source, online resources for training; publishing studies about historic trades; developing trades programs; and supporting the National Park Service's Traditional Trades Advancement Programs and others.

AmeriCorps, inspired by the Civilian Conservation Corps, is a broad umbrella under which numerous state and local government programs sponsor groups that provide education and outreach opportunities including those in preservation trades for a public purpose, often working in state and national parks. They often partner with others, such as the National Trust's HOPE (Hands-On Preservation Experience) Crew.

### Veterans Curation Program

This five-month program administered by a private sector vendor provides job training and skills for workforce re-entry to veterans, by cleaning, documenting, and cataloging archaeological

collections belonging to the US Army Corps of Engineers. The program teaches relevant and translatable skills such as digital photography and database management as well as more specialized instruction in artifact assessment and sorting, documentary report creation, and archival grade scanning. The program is administered by a private sector contractor and is open to all military veterans but with a preference for those who have served in Iraq and Afghanistan.

### Outreach to Specific, Non-traditional Audiences — Time Crime Seminars

In the 1990s, the Virginia Department of Historic Resources (SHPO) helped to develop a continuing education curriculum for law enforcement officers about archaeology, entitled Time Crime. The course provided an overview of applicable laws about archaeological resources. Another component demonstrated how and why both artifacts and context are important in archaeology and how indiscriminate looting destroys data. A final component profiled looters, including observations about methods and tools. This elective course counted toward required continuing education credits. Because it was a novel topic, it attracted a large following. Arrests and prosecutions of archeological crimes increased significantly in the period after the course was offered.

### Most Endangered Properties Lists

Many national, state, and local preservation nonprofits publish annual or regular "endangered" lists. These lists accomplish a number of tasks: they draw attention to significant endangered properties and properties that represent typologies; provide an annual public relations/media event for the sponsoring organization; create an avenue for public participation and citizen input through the nomination process; focus the organization's hands-on advocacy to a specific limited set of resources; and create opportunities for partnerships in the selection and in the interventions.

### Targeted Studies

Contracting with firms and subject matter experts can provide communities and nonprofits with valuable data and analysis around specific topics related to preservation and associated fields. A revolving fund acting as a residential developer could benefit from a housing study to better understand demographics and design trends in order to make informed decisions about target markets, improving their ability to operate profitably. A community trying to create a municipal preservation program may commission a study on the economic impact of preservation to demonstrate financial value to elected officials.

### Lectures and Workshops

These sorts of events can be a benefit of membership and address specific aspects of history, architecture, or preservation. They can also be a social event or a fundraising event. Workshops can be more focused and allow multiple organizations to partner to attract a structured program

that could meet continuing education requirements, including CLG commission member training requirements. Other training events could be hands-on, teaching property owners how to repair windows or repoint mortar joints. In some communities, these workshops have been partnered with a "tool library" allowing participants to borrow specialized and/or expensive machinery that they would not likely buy for their individual use.

### Outreach through Technology

Given the ubiquity of smart phones with internet connectivity, some preservation organizations are finding new ways to reach the public through their phones. Historic markers can be equipped with QR codes that provide direct access to richer, multimedia content to enhance the interpretive message. Historic trails can be integrated with mapping programs to guide guests along paths to experience specific resources and to avoid other areas where visitation could be dangerous. Geo-fencing allows for the targeting of phones within a certain geographical area, either to deliver tailored messaging or to provide an agency with visitor information.

## **FINANCIAL TOOLS**

Financial tools encompass a broad range of implements for private property owners as well as organizations that operate in the preservation sphere.

### Tax Credits and Syndication

Rehabilitation tax credits have been discussed previously in this study. As Wyoming has no state income tax, only the federal rehabilitation credit for income-producing properties is available. The program is administered by the SHPO. One aspect of the federal credit can expand its use: for entities that do not have income tax liability, tax credits can be syndicated by creating a time-limited partnership with another party that can provide equity in return for credits. It involves giving a second party a partial, time-limited ownership share in the building that is being rehabilitated. In some areas, credits have been syndicated to larger investment pools. These sophisticated financial and legal arrangements should be designed by experienced attorneys and tax professionals.

Other tax credit programs that are not historic preservation-specific could be used in conjunction with the rehabilitation tax credit, such as the Low-Income Housing Tax Credit for affordable housing, and New Market Tax Credits for distressed communities.

### Property Tax Deferral

In North Carolina, properties designated as a local landmark—not properties within a local district, unless they are also individually designated—are subject to a local property tax deferral. Once designated, they are taxed at fifty percent of the true value of the property. The North Carolina program is designed so that the tax liability that has been deferred (50%) is held as a lien on the property to be repaid for the preceding three years with interest if the property loses landmark status for a reason other than natural disaster. In essence the deferral is a carrot and a stick, an inducement to landmark a property and a deterrent to demolition or to property alterations that would threaten its landmark status. As local designation in North Carolina, while based on objective criteria, is ultimately a political act of the local governing body, councils have refused to landmark some buildings that generate large real estate tax revenue.

### Transfer of Development Rights

The transfer of development rights (TDR) is only possible in places where development rights may be limited by regulation such as zoning. In these cases, places where development is allowed but may be detrimental to natural or cultural resources, development rights can be sold to owners of parcels in a designated receiving zone that has fewer environmental concerns,

allowing for additional height or density than normally allowed. The severance of rights from the "sending" parcel is secured in perpetuity, generally by easement or covenant. While much of the process is a private-sector transaction, it operates within a larger municipal system. This type of program has been used to preserve agricultural land and to bank wetlands as well as to protect historic resources.

### Program-Related Investments

While private foundations are known to be potential sources of grant funding, they may also provide additional assistance through program-related investments. Generally, foundations have a set limit for granting programs, often established by policy. However, some foundations can provide additional support by providing loans, often in larger amounts than allowed for grants, to projects that fit within their areas of interest. The loans generally have a minimal interest rate and may be interest-only payments with a balloon payment of principal at the end of the loan term. The foundation thus can provide additional assistance to an organization and receive some financial return on investment, while the borrowing organization has access to a large amount of capital, on terms more generous than available through a traditional lending organization.