

## HISTORIC PRESERVATION COMMISSION\*

---

\* **Editors Note:** An ordinance adopted November 14, 1994, was intended by the city to amend Art. IV, §§ 16-60--16-75, in its entirety; however, such ordinance did not provide for specific section designation and was, therefore, included as §§ 16-60--16-84 at the editor's discretion. Prior to such amendment, §§ 16-60--16-75 pertained to the historic properties commission and derived from §§ 1--13 of an ordinance adopted Jan. 12, 1987, and from an ordinance adopted March 27, 1989.

---

### **Sec. 16-60. Creation.**

There is hereby established, by authority of North Carolina General Statutes 160A-400.1 through 160A-400.14, and through interlocal agreement among Transylvania County, the City of Brevard and the Town of Rosman, the Transylvania County Joint Historic Preservation Commission, hereafter referred to as the historic preservation commission or commission. (Ord. of 11-14-94)

### **Sec. 16-61. Appointment of members; terms; qualifications.**

(a) The commission shall consist of nine (9) members appointed by the county board of commissioners, including six (6) from the county, two (2) from the City of Brevard and one (1) from the Town of Rosman. All members shall reside within the planning and zoning jurisdiction, established pursuant to North Carolina General Statute 160A-360, of the county or of a municipality whose governing body adopts this article.

(b) A majority of the members of the commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology or related fields. In addition, all commission members shall have a demonstrated interest, competence, or knowledge in historic preservation.

(c) In making appointments to the commission, the county board of commissioners or the municipal governing body shall make a good faith effort to appoint professional members from the disciplines of architecture, history, architectural history, planning, archaeology, or other related fields, to the extent such professionals are available in the community.

(d) Commission members shall serve staggered terms of three (3) years. Initially, one-third ( 1/3) shall serve a term of three (3) years, one-third ( 1/3) shall serve a term of two (2) years, and one-third ( 1/3) shall serve a term of one (1) year. Thereafter, all appointments shall be for a term of three (3) years.

(e) A member may be reappointed for a second consecutive three-year term, but after two (2) consecutive three-year terms, a member shall be ineligible for reappointment until one (1) calendar year has elapsed from the date of the termination of his or her second three-year term. Upon expiration of the appointment of the member serving as chairman, that member shall be reappointed to serve one (1) additional year as a nonvoting member and advisor to the commission.

(Ord. of 11-14-94)

**Sec. 16-62. Compensation of members.**

Commission members shall serve without compensation, except that they may be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

(Ord. of 11-14-94)

**Sec. 16-63. Officers; advisory boards and committees.**

(a) The commission shall select from among its members a chairman, vice-chairman and a secretary who shall be elected annually by the commission members.

(b) The commission may appoint advisory bodies and committees as appropriate.

(Ord. of 11-14-94)

**Sec. 16-64. Meetings--Time, place.**

The commission shall establish a meeting time and shall meet at least once a month and more often as it shall determine and require, unless there is not sufficient business to warrant a meeting. All meetings shall be held in accordance with the North Carolina Open Meetings Law, North Carolina General Statutes, Chapter 143, Article 3C. Reasonable notice of the time and place thereof shall be given to the public.

(Ord. of 11-14-94)

**Sec. 16-65. Same--Minutes.**

The commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of commission members, its resolutions, proceedings, findings, recommendations, and actions.

(Ord. of 11-14-94)

**Sec. 16-66. Same--Attendance.**

(a) Any member of the commission who misses more than three (3) consecutive regular meetings or more than one-half ( 1/2) the regular meetings in a calendar year shall lose his or her status as a member of the commission and shall be replaced or reappointed by the board of county commissioners or municipal governing body, as appropriate. The appropriate governing body shall act within sixty (60) days to fill vacancies on the commission. The sixty-day period commences with the date of an expired term, letter of resignation, or the time the commission chairman recognizes that there is a vacancy, as defined by the commission's rules of procedure. Appointments to any vacancy shall be for the remainder of the term of the vacant position for which the appointment is made.

(b) Absence due to sickness, death in the family, or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the

commission, except, that in the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.  
(Ord. of 11-14-94)

### **Sec. 16-67. Appropriations.**

The board of county commissioners, the City of Brevard, and the Town of Rosman are authorized to make appropriations to the commission in any amount necessary for the expenses of the operation of the commission, and may make additional amounts available as necessary for acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or of land on which such buildings or structures are located, or to which they may be moved.  
(Ord. of 11-14-94)

### **Sec. 16-68. Receipt of gifts.**

The board of county commissioners, the City of Brevard, and the Town of Rosman shall have the right to accept gifts and donations in the name of the commission for historic preservation purposes.  
(Ord. of 11-14-94)

### **Sec. 16-69. Powers.**

The commission shall be authorized within the planning and zoning jurisdiction of the county and of the municipalities adopting this article to:

- (1) Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance.
- (2) Recommend to the county board of commissioners or the municipal governing bodies within their respective jurisdictions to be designated by ordinance as "historic districts" and individual structures, buildings, sites, areas or objects to be designated by ordinance as "landmarks."
- (3) Recommend to the county board of commissioners or the municipal governing bodies within their respective jurisdictions that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause.
- (4) Review and act upon proposals for alterations, demolition or new construction within historic districts, or for the alteration or demolition of designated landmarks.
- (5) Conduct an educational program with respect to historic districts and landmarks within its jurisdiction.

- (6) Cooperate with the state, federal and local government in pursuance of the purposes of this article; offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The county board of commissioners or the municipal governing bodies, or the commission when authorized by the county board of commissioners and the municipal governing bodies, may contract with the state or the United States, or any agency of either, or with any other organization, provided the terms are not inconsistent with state or federal law.
- (7) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof, however, no member, employee or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof.
- (8) Prepare and recommend the official adoption of a preservation plan for the county or a municipality, or a preservation element as part of a county or municipal comprehensive plan.
- (9) Acquire, by any lawful means, the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.
- (10) Restore, preserve and operate historic properties.
- (11) Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

(Ord. of 11-14-94)

#### **Sec. 16-70. Rules of procedure and design principles and guidelines required.**

Prior to any action to enforce a historic district ordinance and prior to adoption of or amendment to an ordinance designating a historic landmark, the commission shall adopt bylaws establishing rules of procedure governing its meetings and the conduct of official business. The commission shall also prepare and adopt principles and guidelines for new construction, alterations, restorations, additions, moving, and demolition of properties designated as landmarks or within historic districts.

(Ord. of 11-14-94)

#### **Sec. 16-71. Annual report.**

An annual report shall be prepared and submitted to the state historic preservation office

and to the county board of commissioners. That report shall include a comprehensive review of the commission's activities, actions and problems.  
(Ord. of 11-14-94)

**Sec. 16-72. Designation of historic districts and landmarks.**

The designation of a historic district or landmark shall be effective through the adoption of an ordinance by the board of county commissioners for a district or landmark located within the county's planning jurisdiction and by the municipal governing body for a district or landmark located within the municipality's zoning jurisdiction.

(1) *Historic districts.*

- a. Historic districts established pursuant to this article shall consist of areas which are deemed to be of special significance in terms of the county's or municipality's history, prehistory, architecture and/or culture. Such district must also possess integrity of design, setting, materials, feeling and association.
- b. The board of county commissioners or the municipal governing body may, as part of a zoning or other ordinance, designate and, from time to time, amend one (1) or more historic districts within its zoning jurisdiction. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other (base) zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include, as uses by right or as conditional uses, those uses found by the preservation commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration or preservation of the district. Where historic districts are treated as overlay districts, all uses permitted in the underlying (base) zoning district, whether by right or as a special use, shall be permitted in the historic district.
- c. No district shall be designated or amended until the following procedure has been carried out:
  1. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared.
  2. The department of cultural resources, acting through the state historic preservation officer or his or her designee, shall have made an analysis of, and recommendations concerning, such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the board of

county commissioners or the municipal governing body within thirty (30) calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the board of county commissioners or municipal governing body of any responsibility for awaiting such analysis, and the board of county commissioners or municipal governing body may, at any time thereafter, take any necessary action to adopt or amend the zoning or other ordinance.

3. The board of county commissioners or municipal governing body may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the zoning or other ordinance.
4. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts, the investigative studies and reports required by subsection c.1. of this section shall be prepared by the preservation commission and shall be referred to the planning board of the county or the municipality in whose jurisdiction the district is located for its review and comment according to the procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the department of cultural resources in accordance with the provisions of subsection c.2. of this section.
5. Upon receipt of these reports and recommendations, the board of county commissioners or the municipal governing body may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning or other ordinance provisions.

(2) *Historic landmarks.*

- a. No property shall be recommended for designation as an historic landmark unless it is deemed and found by the preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance. It must also possess integrity of design, setting, workmanship, materials, feeling and/or association.
- b. Upon complying with the required landmark designation procedures set forth herein, the board of county commissioners or the municipal governing body may adopt and, from time to time, amend or repeal an ordinance designating one (1) or more historic landmarks.
- c. The ordinance shall describe each property designated in the ordinance,

the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated, and any other information the board of county commissioners or the municipal governing body deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this article be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property with the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.

- d. As a guide for the identification and evaluation of landmarks, the commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical, architectural, prehistorical and cultural significance within the county and the participating municipalities. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the division of archives and history.
- e. No property shall be designated as a landmark until the following steps have been taken:
  1. The commission shall make, or cause to be made, an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
  2. The department of cultural resources, acting through the state historic preservation officer, or his or her designee, shall, either upon request of the department or at the initiative of the commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the department does not submit its comments to the commission within thirty (30) days following receipt by the department of the report, the commission and the board of county commissioners or the municipal governing body shall be relieved of any responsibility to consider such comments.
  3. The commission and the board of county commissioners or the municipal governing body shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

4. Following the public hearing(s), the board of county commissioners or the municipal governing body may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
5. Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One (1) copy of the ordinance and all amendments thereto shall be filed by the commission in the office of the register of deeds of the county. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the register of deeds office and the commission shall pay a reasonable fee for filing and indexing. For landmarks located in municipalities, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the municipal clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the county for such period as the designation remains in effect.
6. Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the commission to give notice thereof to the tax supervisor of the county. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

(Ord. of 11-14-94)

**Sec. 16-73. Certificate of appropriateness--Required.**

(a) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor any above-ground utility structure, nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within the historic district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. Such a certificate is required to be issued by the preservation commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this article. A certificate of appropriateness shall be required whether or not a building or other permit is required.

(b) For purposes of this article, "exterior features" shall include the architectural style,



general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, other appurtenant features, historic signs, color, and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs.

(c) The commission shall have no jurisdiction over interior arrangement, except as follows. The jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks; and of privately owned landmarks for which consent for interior review has been given by the owners. Such consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the register of deeds office and indexed according to the name of the owner of the property in the grantor and grantee indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(Ord. of 11-14-94)

#### **Sec. 16-74. Same--Standard for appropriate change.**

There shall be a single standard for appropriate change in the districts or to the landmarks, expressed as follows: The preservation commission shall take no action under this article except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features which would be incongruous with the special character of the historic district or landmark.

(Ord. of 11-14-94)

#### **Sec. 16-75. Same--Design guidelines.**

No certificate of appropriateness shall be granted unless the commission finds that the application complies with the principles and guidelines adopted by the commission for review of exterior changes. The following design features shall be considered in reviewing applications for certificates of appropriateness:

- (1) Size of the building.
- (2) Height of the building.
- (3) Proportion of width to height of the total building facade.
- (4) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures; maintenance of pedestrian scale.
- (5) General form and proportion of buildings and structures, and the relationship of additions to the main structure.
- (6) Lot coverage, defined as the percentage of the lot area covered by primary structures.

- (7) Setback, defined as the distance from the lot lines to the building.
- (8) Orientation of the building to the street.
- (9) Spacing of buildings, defined as the distance between adjacent buildings.
- (10) Architectural style.
- (11) General design.
- (12) Expression of architectural detailing.
- (13) General arrangement of the exterior of a building or other structure.
- (14) Roof shapes, forms and materials.
- (15) Kind and texture of building material and surfaces.
- (16) Type, style, size, proportion, shape, positioning, location, and pattern of all windows and doors, light fixtures, signs, and other appurtenant features.
- (17) Style, material, size, and location of outdoor advertising signs.
- (18) Use of regional or local architectural traditions.
- (19) Color.
- (20) Significant landscape features.
- (21) Walls and fences: physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, or combinations of these.
- (22) Ground cover or paving.
- (23) Significant natural features.
- (24) Significant archaeological features.

(Ord. of 11-14-94)

**Sec. 16-76. Same--Administrative approval of minor works.**

(a) Prior to adoption by the preservation commission of detailed standards and guidelines, upon receipt of a completed application, the commission administrator may review and approve applications for a certificate of appropriateness for minor works as defined below.

(b) Minor works are defined as those exterior changes which do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or district as a whole. Such minor work items shall be limited to those listed in the commission's rules of procedure.

(c) No application for a certificate of appropriateness for a minor work may be denied without the formal action of the commission.

(d) All minor works applications approved by the commission administrator shall be forwarded to the commission in time for its next scheduled meeting.

(Ord. of 11-14-94)

**Sec. 16-77. Same--Applicability to state and other government entities.**

The state (including its agencies, political subdivisions and instrumentalities), the county, the towns and cities, and all public utilities shall be required to obtain a certificate of appropriateness for construction, alteration, moving, or demolition within the historic district or on designated landmarks.

(Ord. of 11-14-94)

**Sec. 16-78. Same--Standards for review of applications of the state.**

The Secretary of the Interior's "Standards for Treatment of Historic Properties" shall be the sole principles and guidelines used in reviewing applications of the state for certificates of appropriateness.

(Ord. of 11-14-94; Amd. of 12-9-96)

**Sec. 16-79. Same--Certain changes not prohibited.**

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or on a landmark which does not involve a change in design, materials, or outward appearance thereof; the ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs, or traffic signs; [or] the construction, reconstruction, alteration, restoration or demolition of any such feature which the building inspector shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration, of any existing above-ground utility structure without approval by the commission.

(Ord. of 11-14-94)

**Sec. 16-80. Same--Application.**

(a) Applications for a certificate of appropriateness shall be obtained from and, when completed, filed with the administrator for the preservation commission. The application shall be filed at least twenty-one (21) days prior to the next regularly scheduled meeting of the commission. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction. The names and mailing addresses of property owners filing and/or subject to the application and the addresses of property within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed. No application which does not include the aforementioned information will be accepted.

(b) It shall be the policy of the commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that a subcommittee of the commission shall be available to meet with persons involved in planned or pending applications in order to advise them informally at an early stage in the development process concerning the commission's guidelines, the nature of the area where the proposed project will take place, and other relevant factors. The members of the subcommittee, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any member of the subcommittee at such an informal meeting shall not be considered official or binding upon the commission.

(Ord. of 11-14-94)

**Sec. 16-81. Same--Action on application.**

(a) Prior to the issuance or denial of a certificate of appropriateness, the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. The commission shall notify, by mail, not less than one (1) week prior to the meeting at which the matter is to be heard, the owners of property within one hundred (100) feet on all sides of the subject property. The commission may hold a public hearing on any application when deemed necessary.

(b) Applications for certificates of appropriateness shall be acted upon within ninety (90) days after filing; otherwise, the application shall be deemed to be approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the commission and the applicant.

(c) As part of the review procedures, the commission may view the premises and seek the advice of the department of cultural resources or other such expert advice as it may deem necessary under the circumstances.

(d) The action on an application shall be approval, approval with conditions or denial. The decision of the commission must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the historic district or landmark.

(Ord. of 11-14-94)

**Sec. 16-82. Same--Appeals.**

(a) In any action granting or denying a certificate of appropriateness, an appeal by an aggrieved party may be taken to the board of adjustment.

(b) Written notice of the intent to appeal must be sent to the commission, postmarked within thirty (30) days following the decision. Appeals shall be in the nature of certiorari. Appeals of decisions of the board of adjustment shall be heard by the superior court of the county.

(c) The state shall have a right of appeal to the state historical commission, which shall render its decision within thirty (30) days from the date that a notice of appeal by the state is received by the historical commission. The decision of the historical commission shall be final and binding upon both the state and the commission.

(Ord. of 11-14-94)

**Sec. 16-83. Same--Enforcement of compliance; remedies.**

(a) Compliance with the terms of the certificate of appropriateness shall be enforced by the zoning administrator or the commission. Failure to comply with the certificate shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations.

(b) In case any building, structure, site, area or object designated as a landmark or within a historic district is about to be demolished, whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with this article, the board of county commissioners, the municipal governing body, the commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such a building or structure.

(Ord. of 11-14-94)

**Sec. 16-84. Same--Delay in demolition of landmarks and buildings within historic districts.**

(a) An application for a certificate of appropriateness authorizing the demolition, removal, or destruction of a designated landmark or a building, structure or site within a historic district may not be denied, except as provided in subsection (c) below; however, the effective date of such a certificate may be delayed for up to three hundred sixty-five (365) days from the date of approval. The period of delay shall be reduced by the commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period, the commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site. If the commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

(b) If the commission has voted to recommend the designation of a landmark or the designation of an area as a historic district, and final designation has not been made by the board of county commissioners or the municipal governing body, the demolition or destruction of any building, structure or site in the proposed district or on the property of the designated landmark may be delayed by the commission for up to one hundred eighty (180) days or until the county board of commissioners or the municipal governing body takes final action on the designation, whichever occurs first.

(c) The county board of commissioners or the municipal governing body may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within the established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.

(d) An application for a certificate of appropriateness authorizing the demolition of a building, structure or site determined by the state historic preservation officer as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(Ord. of 11-14-94)

**Secs. 16-85--16-100. Reserved.**