

Appeal Application Form

c/o Municipal and Community Affairs
Government of Newfoundland and Labrador

File Number:

(Office Use Only)

The Appeals process is governed by the legislative requirements under sections 40-46 of the *Urban and Rural Planning Act, 2000* ("the Act"), and Information collected for the purposes for preparing appeal packages is collected in accordance with the Act.

All information submitted to the Department of Municipal and Community Affairs ("the Department") prior to an appeal is managed in compliance with the *Access to Information and Protection of Privacy Act* ("ATIPPA").

Please review before proceeding:

Under Sections 40-46 of the Act, certain decisions made by an Authority under this or other acts may be appealed, namely:

- A decision to approve, refuse, or include conditions on a development approval;
- A revocation of an approval or a permit to undertake a development;
- The issuance of an enforcement order, such as a stop work order;
- Development or enforcement decisions made under the following regulations: Benton, Butterpot-Witless Bay Line Environs, Conne River, Gander River, Marble Mountain, Highway Signage, Interim Development Control, Occupancy and Maintenance, and Protected Road Zoning; and
- The refusal of a building permit under section 180 of the *Towns and Local Service Districts Act*.

As per Section 2 of the Act, the definition of development is:

"**Development**" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use, or the intensity of use of land, buildings or premises and the

- (i) making of an access onto a highway, road or way,
- (ii) erection of an advertisement or sign,
- (iii) construction of a building,
- (iv) parking of a trailer, or vehicle used for the sale of refreshments or merchandise, or as an office, or for living accommodation,

and excludes the

- (v) carrying out of works for the maintenance, improvement or other alteration of a building, being works which affect only the interior of the building or which do not materially affect the external appearance or use of the building,
- (vi) carrying out by a highway authority of works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road reservation,
- (vii) carrying out by a local authority or statutory undertakers of works for the purpose of inspecting, repairing or renewing sewers, mains, pipes, cables or other apparatus, including the breaking open of street or other land for that purpose, and
- (viii) use of a building or land within the courtyard of a dwelling house for a purpose incidental to the enjoyment of the dwelling house as a dwelling;

Appeal Adjudicators are authorized under the Act to conduct a procedural review to determine whether matters under appeal (development decisions or enforcement orders) were made in accordance with the applicable plan, development regulations, and legislation. Adjudicators have no authority to amend a municipal plan, development regulations, or legislative requirements, or to override the discretionary powers of a development control authority.

The Appeals process is not a court of law. An Appeal Adjudicator is empowered by the Act to hear matters by aggrieved parties within the limitations set out. An Adjudicator is not bound by the Rules of Evidence but has the powers of a commissioner under the *Public Inquiries Act, 2006*.

An Adjudicator has no jurisdiction to hear appeals regarding:

- A decision of an Authority to adopt, approve or proceed with a plan, scheme, or development regulations or amendments to any of those documents;
- Recommendations regarding the acquisition of Crown Land;
- A decision to enter into a contract, development agreement, or purchase or sale agreement;
- Taxation or property assessment;
- Capital works projects; or
- Municipal operations (e.g., snow clearing, garbage collection, water & sewer services, etc.).

I have read and understood the statements above.

I understand that the material I submit for the purposes of this appeal may be shared.

PART I - Appeal

An Appeal Adjudicator can hear appeals of municipal council decisions and provincial development control decisions regarding:

- An application to undertake a development
- The revocation of an approval or a permit to undertake development
- The issuance of an Order
- The refusal of a building permit

What are you appealing?

Please choose **one** of the following, applicable to your grievance:

- A decision to refuse an application to undertake a development
- Conditions of a development approval or an approval-in-principle
- A decision to approve an application to undertake a development (Third Party Appeal)
- Issuance of an Order
- A revocation of an approval or a permit to undertake a development

Identify which Authority made the decision you are appealing (please choose one):

- A Municipal Council. If so, please indicate the name of the City Council or Town Council that made the decision being appealed:

Municipal Council of:

- The Government Service Centre (GSC), Department of Government Services

Decisions may be appealed under one of the following options only. Please choose the applicable one, (as stated in communication from the Authority):

NOTE: If the decision is not applicable to any of the following, it may be outside the jurisdiction of the Appeal Adjudicator.

The development decision of the Municipal Council, made under the following:

- | | |
|---|--|
| <input type="checkbox"/> Municipal Plan and Development Regulations | <input type="checkbox"/> The Urban and Rural Planning Act, 2000 |
| <input type="checkbox"/> Interim Development Regulations | <input type="checkbox"/> The Towns and Local Service Districts Act |
| <input type="checkbox"/> Occupancy and Maintenance Regulations | |

The decision of GSC, Government Services, made under the following provincial regulations:

- | | |
|--|--|
| <input type="checkbox"/> Protected Road Zoning Regulations | <input type="checkbox"/> Benton Development Control Regulations |
| <input type="checkbox"/> Highway Sign Regulations | <input type="checkbox"/> Gander River Protected Area Regulations |
| <input type="checkbox"/> Butterpot-Witless Bay Line Environs Development Control Regulations | <input type="checkbox"/> Conne River Local Planning Area Regulations |
| <input type="checkbox"/> Marble Mountain Protected Area Land Use Zoning Regulations | |

The issuance of an enforcement Order, made under the following:

- | | |
|--|---|
| <input type="checkbox"/> Section 102 of the <i>Urban and Rural Planning Act</i> | <input type="checkbox"/> Section 240 of the <i>City of Corner Brook Act</i> |
| <input type="checkbox"/> Section 42 of the <i>Occupancy and Maintenance Regulations</i> | <input type="checkbox"/> Section 240 of the <i>City of Mount Pearl Act</i> |
| <input type="checkbox"/> Section 285 of the <i>Towns and Local Service Districts Act</i> | |

If the nature of the appeal matter relates to an enforcement Order, select type:

- Stop Work Order Clean Up Order
 Restoration Order Remediation Order
 Demolition Order Other (explain in grounds)
 Not Applicable (if so, disregard the next two questions about Orders)

If an enforcement Order was issued, how was it served?

- Delivered in person By registered mail Posted on property Other

If an Order was issued, was there prior communication with the Authority?

- Yes No Other (explain in grounds)

Section 5 of the **Minister's Development Regulations** under the **Urban and Rural Planning Act, 2000** (pending consequential amendments to citation references) states:

Where an authority makes a decision that may be appealed under section 42 of the Act, that authority shall, in writing, at the time of making that decision, notify the person to whom the decision applies of the

- (a) person's right to appeal the decision to the board;
(b) time by which an appeal is to be made;
(c) right of other interested persons to appeal the decision; and
(d) manner of making an appeal and the address for the filing of the appeal.

Did the Authority inform you of the right to appeal in writing?

- Yes No N/A (I am an interested party)

Did you submit an application?

- Yes No

Did you receive a decision in writing from the Authority?

- Yes No

How did you become aware of the Authority's decision?

- Mail Email Council Minutes Word of Mouth Other (explain in grounds)

On what date did the Authority make its decision?

Date (month/ day/ year):

On what date did you become aware of the Authority's decision?

Date (month/ day/ year):

Did the Authority provide reasons for its decision?

Yes No Explanation of reason:

Please provide details about the location of the subject property under appeal:

Address

What is the nature of the matter under appeal? (In “grounds of appeal” section, please explain in detail).

- Issuance of a Permit Refusal of a permit Revocation of a permit Demolition Permit
- Residential Commercial Industrial Institutional Agricultural
- Mining/ quarrying Clearing land Issuance of an Order Other (explain in grounds)

PART II – Grounds of Appeal

Please explain how you believe the Authority did not follow proper procedure as per applicable regulations when it made the decision you are appealing, or how the Authority made a decision that is not in conformance with the plan, development regulations, or applicable legislation. You may attach this information as a separate document.

PART III – Appeal Fee

An appeal fee of \$200 and HST (\$230 total) must accompany this form in order for the appeal to be registered.

How are you submitting the appeal fee?

- Submitting a cheque or money order payable to the “Newfoundland Exchequer” with my appeal documents;
- Paying cash at the Province’s Central Cashier’s Office; or
- Paying by telephone: (709) 729-3042

Please note receipt number:

PART IV - Appellant’s Information

Are you submitting this appeal on behalf of someone else? If so, please indicate for whom:

Yes No

Appellant’s mailing address:

Phone number:

Fax number:

E-mail address:

<input type="checkbox"/> Yes <input type="checkbox"/> No

After the appeal has been registered, a notice will appear in the local newspaper.

You will be advised via email or in writing, of the time, date, and place of the hearing. A notice will also appear at the Appeal Hearings and Decisions page: <https://www.gov.nl.ca/mca/for/decisions>.

You, or a representative, may appear before the Appeal Adjudicator at the Hearing concerning the matter under appeal. The Authority and any other person affected will be given an opportunity to be heard by the Adjudicator to present submissions concerning the matter under appeal.

You will be notified in writing of the decision of the Adjudicator.

The decision of the Adjudicator is final; however, in accordance with section 46.1 of the Act, the Adjudicator’s decision may be appealed to the Supreme Court of Newfoundland and Labrador, on a question of law or jurisdiction. An appeal to Court must be filed within 10 days of the appellant receiving the decision.

The completed appeal form can be submitted by email to the Appeal Officer at URPA.Appeals@gov.nl.ca.

Please confirm that you have sent a completed copy of this form to the Authority that made the decision being appealed (that is, the Municipal Council or the Government Service Centre office). Copy sent to the Authority via:

- Mail Email Delivered in person to office
 Other:

Authority's Email:

Affirmation:

- I certify that all applicable sections of this form have been completed to the best of my knowledge and belief.
 I have included any relevant documentation related to the matter under appeal.

APPELLANT

Name (please print):

Signature

Date:

Email Address:

Phone Number:

**APPELLANT'S
REPRESENTATIVE
(if applicable)**

Name (please print):

Signature

Date:

Email Address:

Phone Number:

It is required by law that all development related to the appeal must stop until an adjudicator makes a decision. According to Section 46 of the *Urban and Rural Planning Act, 2000*:

Development may not proceed

46. (1) Where an appeal is made under section 41, the development with respect to the appeal, work related to that development or an order that is under appeal shall not proceed or be carried out pending a decision of the adjudicator.

(2) Where, on appeal, a permit to develop is confirmed or ordered to be issued, a council, regional authority or authorized administrator shall issue the permit as confirmed or ordered.

Please take note of section 8 of the *Minister's Development Regulations, 2000* (pending consequential amendments to citation references), which states:

8. (1) Immediately upon notice of the registration of an appeal the appropriate authority shall ensure that any development upon the property that is the subject of the appeal ceases.

(2) Sections 102 and 104 of the Act apply to an authority acting under subsection (1).

(3) Upon receipt of a notification of the registration of an appeal with respect to an order under section 102 of the Act, an authority shall not carry out work related to the matter being appealed.

The development control Authority (the Municipal Council or Government Service Centre) should ensure that this requirement is enforced and inform any other affected party.