

xxxURBAN AND RURAL PLANNING ACT, 2000

Section 40-46

<https://www.assembly.nl.ca/legislation/sr/statutes/u08.htm#40>

Appeal #: 15-006-091-022

Adjudicator: Clifford Johnston

Appellant(s): Melvin Soper

Respondent / Authority: Town of Paradise

Date of Hearing: October 16, 2025

Location of Hearing: Beothuk Building, St. John's

Start/End Time: 2pm to 2:45pm

In Attendance

Appellant: Melvin Soper

Respondent/Authority: Kim Blanchard, MCIP, Director Planning & Protective Services, Steven Batten, Foreperson, Municipal Enforcement

Appeal Officer: Sarah Kimball,, Municipal Affairs and Community Engagement

Technical Advisor: Setare Vafaei, Planner, Municipal Affairs and Community Engagement

Adjudicator's Role

The role of the Adjudicator is to determine if the Authority, in the case of this appeal, the Town of Paradise,, acted in accordance with the Urban and Rural Planning Act, 2000 and the Town of Paradise Municipal Plan and Development Regulations, 2016, the Town of Paradise Occupancy and Maintenance Regulations, 1996 and the Town of Paradise Anti-Litter Regulations, 2013, when the Town issued an Order on May 21, 2024 to the Appellant to remove a vehicle and debris at Civic No. 1 Croydon Street, Paradise.

Appeal Hearing Presentations

The following is a synopsis/summary of the verbal presentations made to the Adjudicator at the appeal hearing.

Planner's Presentation

The role of the Planner is to act as a technical advisor to the appeal process and act as an expert witness.

Under the Rules of Procedure:

(a) there shall be a technical advisor to the Adjudicator who shall provide data relative to the Municipal Plan or other Scheme in effect and an interpretation on whether or not the proposal under appeal conforms, is contrary to, or could be discretionarily approved pursuant to the Municipal Plan, Scheme or Regulations.

The Planner from Municipal Affairs and Community Engagement shall provide the framework with respect to the appeals process under the Urban and Rural Planning Act, 2000 and provide an overview of how an application was received from a developer and processed by Council as prescribed in their roles and responsibilities.

At the appeal hearing, the Adjudicator heard the following verbal summary points from the Planner from the information included in the Technical Report prepared for the appeal prior to the appeal hearing. This Technical Report was distributed by the Appeal Officer to the Adjudicator, the Appellant and the Authority prior to the appeal hearing. The Technical Report is on file with the Appeal Officer.

*The Town received complaints regarding the condition of the subject property. According to the Town's submission, following multiple attempts to have the debris and the subject vehicle removed from the property, the Town proceeded to issue an Order on May 21, 2024 to the Appellant in accordance with enforcement procedures.

*The Town Council ratified the Order at the Council meeting held on May 28, 2024.

*The subject property is zoned as Residential Medium Density (RMD) under the Town's Development Regulations and Land Use Zone Map.

*The Technical Report outlined the authorities of the Town of Paradise Occupancy and Maintenance Regulations, 1996 and the Town of Paradise Anti-Litter Regulations, 2013.

*The Appellant claims the Town lacks the mechanical expertise to deem the subject vehicle on his property as a wreck. The Town has determined through the Provincial Motor Registration Division that the subject vehicle's registration expired in 2019. The Town states that the vehicle's appearance along with other factors, meets the criteria of Section 35 of the Occupancy and Maintenance Regulations, 1996.

*According to the Town's submission materials, the subject vehicle is stored in the side yard of the property and adjacent to the Trailway Provincial Park Corridor. Section 4.21 of the Town's Development Regulations outlines the requirements for maintaining a buffer of existing vegetation along the T'Railway.

*Section 4.12 of the Town's Development Regulations provides that side yards are required to remain clear of obstructions to ensure adequate access for maintenance of buildings.

The Appellant's Presentation and Grounds

Prior to the appeal hearing, the Appellant provided a written submission on his appeal. This submission was provided to both the Adjudicator and the Authority prior to the appeal hearing and is on file with the Appeal Officer.

In summary, Mr. Soper verbally noted the following points at the appeal hearing:

- (a) He only uses the vehicle four (4) months out of the years for snowclearing on his own property.
- (b) He does not drive the vehicle on any public roads. It is not registered for public roads.
- (c) The vehicle is visible from the T'Railway.
- (d) He can't afford to buy a newer vehicle to snowplow his property and thereby needs this vehicle.
- (e) The Town should have worked with him to resolve the matter before issuing the Order.

Authority's Presentation

Prior to the appeal hearing, the Town of Paradise submitted information on the Town's Order to the Appellant to remove the subject vehicle and clear up debris from the subject property. The Town outlined its authorities to issue the Order in its written submission. This written submission was provided to the Adjudicator and the Appellant prior to the appeal hearing and is in file with the Appeal Officer.

Ms. Blanchard and Mr. Batten spoke on behalf of the Town. The following is a summary of their verbal comments to the Adjudicator.

*There were ongoing efforts by the Town to work with the Appellant to clear up the subject property before a decision was made by the Town to issue the Order of May 21, 2024.

*The Town received public complaints about the subject vehicle and debris on the subject property. The Town has a responsibility to investigate and to take appropriate actions on such complaints.

*The Town has the authority under the Town of Paradise Maintenance Regulations, 1996 and the Town of Paradise Anti-Litter Regulations, 2013 to issue an Order to a property owner in the town to remove debris and dilapidated vehicles from a property.

*The Town staff issued the Order in accordance with the required procedure to the Appellant and the Order was subsequently ratified by the Town Council.

Adjudicator's Analysis

In my role as the appointed Adjudicator, I have reviewed the Urban and Rural Planning Act, 2000, the Town of Paradise Municipal Plan and Development Regulation, the Paradise Occupancy and Maintenance Regulations, 1996 the Town of Paradise Anti-Litter Regulations and the Technical Report prepared by the Planner and the written and verbal representations from the Appellant and the Authority and have determined the following:

Question/Answer

Q. Did the Town have the authority to issue an Order to the Appellant to remove a dilapidated vehicle and remove debris from the subject property?

R. Yes. The subject property is zoned as Residential Medium Density (RMD) under the Town's Development Regulations.

The Town's Order of May 21, 2024 cited Section 35 of the Town's Occupancy and Maintenance Regulations, 1996 which states that "*Land shall be free from debris including a vehicle, trailer or object which is a wrecked, discarded or abandoned condition.*" The Town's Order also cited Section 13 of the Town's Anti-Litter Regulations, 2013 which states that "*All Residential Properties shall be kept clean and free from visible wrecked, dismantled, inoperative, unused or abandoned vehicles and any other machinery or any parts thereof, except as permitted only in an approved, enclosed residential garage for the sole purpose of restoration.*"

Q. Did the Town issue the Order to the Appellant in a proper fashion?

R. Yes. The information provided by the Town demonstrates to the Adjudicator that the Order was satisfactorily issued to the Appellant in accordance with Section 406(1) of the Municipalities Act, 1999.

Decisions of Adjudicator per the Urban and Rural Planning Act, 2000

44. (1) In deciding an appeal, an adjudicator may do one or more of the following:

- (a) confirm, reverse or vary the decision that is the subject of the appeal;*
- (b) impose conditions that the adjudicator considers appropriate in the circumstances; and*
- (c) direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have the adjudicator's decision implemented.*

(2) Notwithstanding subsection (1), a decision of an adjudicator shall not overrule a discretionary decision of a regional authority or authorized administrator.

(3) An adjudicator shall not make a decision that does not comply with

- (a) this Act;*
- (b) a plan and development regulations registered under section 24 that apply to the matter being appealed; and*
- (c) a scheme, where adopted under section 29.*

(4) An adjudicator shall, in writing, notify the person or group of persons who brought the appeal and the council, regional authority or authorized administrator of the adjudicator's decision.

Adjudicator's Conclusion

After having reviewed the written and verbal information and representations presented to me by the Technical Advisor, the Appellant and the Town of Paradise, as well as the applicable legislation, I conclude in my role as the appointed Adjudicator for this appeal, that the Town of Paradise had the authority under Section 35 of the Town's Occupancy and Maintenance Regulations, 1996 and Section 13 of the Town's Anti-Litter Regulations, 2013 to issue the Order to the Appellant, Melvin Soper, to remove a vehicle and to remove debris from the residential property located at Civic No. 1 Croydon Street, Paradise..

The Town determined in its discretion, that the Appellant was in non-compliance with the Town's requirements for the appearance/conditions of residential properties involving the outdoor storage of vehicles and materials. The Town has demonstrated to the Adjudicator that it made a series of ongoing efforts to work with the Appellant to try to resolve the Town's concerns respecting the outdoor parking of the subject vehicle and the outdoor storage of materials on the subject property before issuing its Order of May 21, 2024 to the Appellant.

As the appointed Adjudicator, I have determined that the Town had the discretionary authority to issue the subject Order to the Appellant, and has satisfactorily demonstrated to me that it applied this authority in a reasonable and proper fashion. Section 44(2) of the Urban and Rural Planning Act, 2000 provides that *"Notwithstanding subsection (1), a decision of an adjudicator shall not overrule a discretionary decision of a council, regional authority or authorized administrator."*

ORDER

The Adjudicator orders that the decision of the Town of Paradise made on May 21, 2024 to issue an Order to the Appellant, Melvin Soper, to remove a dilapidated vehicle and to remove debris from the residential property located at Civic No. 1 Croydon Street, Paradise, be confirmed. The Appellant's appeal is thereby denied.

The Authority and the Appellant are bound by this decision.

According to section 46(1) of the Urban and Rural Planning Act, 2000, the decision of this Adjudicator may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days after the Adjudicator's decision has been received by the Appellant and the Authority.

DATED at St. John's, Newfoundland and Labrador, this 17th day of October, 2025.



Clifford Johnston, Adjudicator

Urban and Rural Planning Act, 2000