

TOWN OF CAPE BROYLE

MUNICIPAL PLAN

IMPORTANT: To see if there were any changes to this plan since it came into effect, please refer to:

List of Municipal Plan Amendments

August 18 2009

**TOWN OF CAPE BROYLE MUNICIPAL PLAN
2009**


**URBAN AND RURAL PLANNING ACT
RESOLUTION TO ADOPT
TOWN OF CAPE BROYLE MUNICIPAL PLAN 2009**

Under the authority of Section 16 of the *Urban and Rural Planning Act 2000*, the Town Council of Cape Broyle adopts the Cape Broyle Municipal Plan 2009.

Adopted by the Town Council of Cape Broyle on the 16th day of September 2009.

Signed and sealed this 26th day of November, 2009.

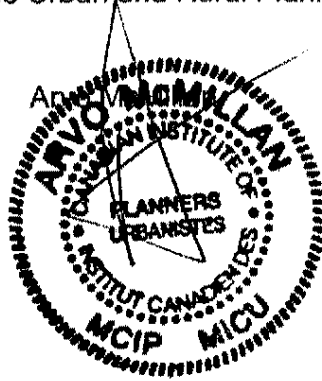
Mayor: 
Donny Graham

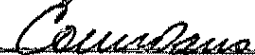
Clerk: 
Wendy Duggan

CANADIAN INSTITUTE OF PLANNERS CERTIFICATION

I certify that the attached Municipal Plan has been prepared in accordance with the requirements of the *Urban and Rural Planning Act 2000*.

MCIP:



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|--|
| Municipal Plan/Amendment REGISTERED |
| Number <u>860-2010-001</u> |
| Date <u>January 5, 2009</u> |
| Signature <u></u> |

**URBAN AND RURAL PLANNING ACT
RESOLUTION TO APPROVE
TOWN OF CAPE BROYLE
MUNICIPAL PLAN 2009**

Under the authority of section 16, section 17 and section 18 of the *Urban and Rural Planning Act 2000*, the Town Council of Cape Broyle:

- a) adopted the Cape Broyle Municipal Plan 2009 on the 16th day of September 2009.
- b) gave notice of the adoption of the Cape Broyle Municipal Plan 2009 by advertisement inserted on the 3rd day of October, 2009 and the 10th day of October, 2009 in the Telegram newspaper.
- c) set the 20th day of Oct at 7:00 p.m. at the Town Hall, Cape Broyle for the holding of a public hearing to consider objections and submissions.

Now under section 23 of the *Urban and Rural Planning Act 2000*, on the 26th day of Nov, 2009 the Town Council of Cape Broyle approves the Cape Broyle Municipal Plan 2009.

SIGNED AND SEALED this 26th day of November, 2009

Mayor: 
Donny Graham

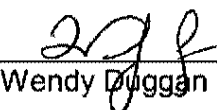
Clerk: 
Wendy Duggan

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TOWN OF CAPE BROYLE MUNICIPAL PLAN 2009

1 INTRODUCTION – THE PLAN AND DEVELOPMENT REGULATIONS

This municipal plan for the Town of Cape Broyle that has been prepared in accordance with the provisions of the Urban and Rural Planning Act of Newfoundland and Labrador 2000. It is accompanied by the Town of Cape Broyle Development Regulations which provides the land use controls necessary to implement certain land use policies of this municipal plan.

The Urban and Rural Planning Act requires that a review be carried out every five years in order to ensure that, at a very minimum, a plan and its regulations are up to date and in compliance with the latest provincial policies and standards.

The Cape Broyle Municipal Plan 2009 contains goals and land use policies approved by Council and registered by the Minister of Municipal Affairs. The Municipal Plan is binding upon Council and upon all other persons, corporations and organizations within the Cape Broyle Municipal Planning Area, which is coterminous with the Town boundary.

In order to implement the Municipal Plan, the Cape Broyle Development Regulations 2009 were approved and registered at the same time as the Cape Broyle Municipal Plan 2009. The provisions of the Development Regulations set out the requirements for variances and non-conforming uses among other matters. Included with the Cape Broyle Development Regulations is Newfoundland Regulation 3/011 - Development Regulations under the Urban and Rural Planning Act 2000.

Policies and regulations under the Municipal Plan and Development Regulations must comply with all applicable Provincial and Federal regulations. Prior to adoption by the Town under the Urban and Rural Planning Act, the Department of Municipal and Provincial Affairs reviews the Plan and Regulations to “to determine provincial and other government agency interests. . . .” (Section 15(3) of the Urban and Rural Planning Act)

Development schemes, design concepts, comprehensive plans, subdivision agreements and concept plans, *further implement the Municipal Plan and Development Regulations* with more detailed designs, design strategies and policies for roads and other facilities, and development.

While capital works programming does not affect the day to day regulation of land uses under the Development Regulations, it does over the long run affect how and when lands will be developed and the standards of development. Capital Works programming is left to the five-year capital works budgeting process.

The boundaries between the different land use designations in the Municipal Plan are meant to be general, except in the case of roads or other prominent physical features, where they are intended to define the exact limits of each category. Therefore, where necessary, minor adjustments may be made to these boundaries for the purpose of implementing the Plan or the Development Regulations.

2 BACKGROUND

Cape Broyle is located on the Southern Shore along Route 10, and roughly an hour's drive from St. Johns and adjoins the historic ("Colony of Avalon") Town of Ferryland.

Cape Broyle is believed to have taken its name from the Portuguese word *broille*, meaning to roar, referring to a ledge of sunken rock jutting out from the cape and causing white water to form at the bay's entrance. Although earlier attempts to form a colony began in 1618, the community got its start in the 1780s when settlers began to arrive from Ireland. By the mid 1800s the population had grown to over 500, and now, in 2006 its population is 545 in 268 occupied dwellings - a slight decline from the 2001 population of 568. However, the overall population of the Town, together with the unincorporated communities of Admiral's Cove and Brigus increased from 800 to 850

Traditionally the inshore fishery was the major employer, but in more recent years the economy has diversified to include eco-tourism and a small crab fishery. Much of the focus has now shifted from fishing to manufacturing with four companies manufacturing such things as caskets and fish processing equipment. The town also has a fish processing plant, a small engine repair shop, a hardware store, a construction company, an ecotourism operation, bed and breakfasts, grocery stores, restaurants/lounges, garages, and several beauty salons.

Some of the attractions in the Cape Broyle area include the "Devil's Stairway" which is a rock formation that has to be seen to be believed. Legend says that Satan left his footprints in the face of the cliff. Cape Broyle also boasts some exceptional sea kayaking and tourists continue to visit each year in search of outdoor adventure.

One of the major elements in the tourism and general recreational development of Cape Broyle and the communities of the Southern Shore (the Irish Loop) is the East Coast Trail.

Like its sister communities of the Southern Shore, Cape Broyle boasts a rich cultural and built heritage. Many of the place names within the community – such as the Kisha (spelling uncertain) for a community garden – and other names appear to be derived from Irish Gaelic terms, though much changed over years. Immaculate

Conception Church and its cemetery and the former R.J. O'Brien's General Store (Stan Cook Sea-Kayaking Adventures) located on Harbour Road (formerly called "Front Road", are designated municipal heritage sites under the Municipalities Act. Another municipal heritage site is the former whale factory site. As well, there are several archaeological sites relating to early European settlement in and near this community.

The "Town" part of Cape Broyle comprises a dense network of small streets and lanes with homes and businesses located around the Harbour and along and west of the Southern Shore Highway (Route 10).

Parts of the Highway follow the former railway bed, a branch of Newfoundland Railway from St. John's to Trepassey. This railway had a very brief life, closing in 1931. Much of the track bed is still used as trails, and many communities, including Cape Broyle have a "Track Road", a "Station Road", or simply, "The Track".

The old Southern Shore Highway and part of the track were flooded when Newfoundland Hydro built a small hydro electric plant and dam. Two separate ponds then became one – Horse Chops Pond.

Most of Horse Chops Pond lies outside the Town and Planning Area boundary. Horse Chops Line which leads up to the Avalon Wilderness Area and another dam is home to numerous cottages and what appear to be year-round residences.

There is no municipal water and sewer in Cape Broyle. Each business and household obtains water from a private well and disposes of its waste through a private system. With the exception of Track Road and Cecil Daltons' Lane (and Horse Chops Line), roads in the community are owned and maintained by the Department of Transportation and Works. Fire protection is provided under contract by the Town of Ferryland. Garbage is disposed of in the La Manche Dump Site located north of the Town. The Town contracts out all services.

The Town of Cape Broyle does not intend to provide services beyond what is currently being provided.

There is a Protected Road Zoning Plan in effect for Highway 10 enacted under the Urban and Rural Planning Act. The provisions of this Zoning Plan are supplanted by the provisions of this Municipal Plan. However, any development within 100 metres of the centre-line of Highway 10 ("Building Control Line") within the Town boundary is subject to the approval of the Department of Government Services. This Building Control Line extends 150 metres on either side of the centre-line of Highway 10 where it lies within the Cape Broyle Planning Area alone.

Only limited development is expected to occur over the foreseeable future. The Municipal Plan provide for some residential and commercial expansion along and off Highway 10 and back of the former track in the Kishue Gardens area.

CAPE BROYLE MUNICIPAL PLAN

OBJECTIVES AND POLICIES

3 MUNICIPAL PLAN OBJECTIVES

The main objective is to accommodate growth while retaining its character as a livable, attractive community that protects its natural and built environment.

4 LAND USE POLICIES

4.1 General Development Policies

4.1.1 Future Land Use Designations and Policies

All development within the Cape Broyle Planning Area shall be managed in accordance with the general land use policies and designations set out in the ensuing sections. These designations are shown on the Future Land Use Maps.

To identify land for the future development needs of Cape Broyle, the following land use designations are established in the Plan and designated on Future Land Use Maps:

- a) Mixed Development
- b) Rural
- c) Environmental Protection.

4.1.2 Accessory Buildings and Uses

Accessory buildings and uses shall be subject to the conditions set out in this municipal plan and the development regulations.

An accessory use is defined under "Newfoundland Regulation 3/01 - Development Regulations under the Urban and Rural Planning Act, 2000" as "a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use."

4.1.3 Advertisements and Signs

Advertisements and signs shall, while complying with requirements for safety and convenience and promoting the businesses and resources of Cape Broyle, shall be designed and located in such a way as to contribute to the overall attractiveness of Cape Broyle.

4.1.4 Agriculture

Agricultural uses are regulated by the Town and the Provincial Government. Agricultural uses shall be approved by both the Department of Natural Resources and the Town, together with other appropriate agencies.

4.1.5 Compatibility of Uses, Buffers and Screening

Council shall ensure as much as possible that new development will not negatively affect existing and proposed land uses by creating a hazard or nuisance such as noise, dust, odour or unsightly appearance. Council may require a developer to provide appropriate screening or to undertake other measures to minimize negative off-site effects.

4.1.6 Comprehensive Development

Large scale comprehensive development containing two or more individual developments may be permitted at the discretion of the Town on lands that otherwise cannot be satisfactorily developed in the conventional manner and/or to create a development that retains certain natural and/or historic features of the Town.

While the use classes and overall density of the comprehensive development must comply with the use zone schedule of the zone in which it is located, other standards can be modified or waived such as the lot size, building line setbacks, lot coverage and road width. While the comprehensive development must have access to and frontage on public road, roads and other services in the development need not be publicly owned and maintained.

Water supply and waste disposal services for the development must be approved by the Government Service Centre and other appropriate agencies. The Town may require that a communal water supply and waste disposal service be provided by the developer and maintained by the developer and/or owners of the development.

However, before granting an approval in principle and issuing permits for a comprehensive development, the Town must be satisfied that emergency services can be provided to developments within the comprehensive development.

4.1.7 Development and Roads and Services

New development shall make efficient use of existing roads and infrastructure. Council shall further ensure that new development will not create unreasonable servicing demands or costs, or create a situation in which municipal water and

sewer services are required. In general, no new public roads shall be developed unless they are included under the Municipal Servicing Limits Agreement.

Council may refuse permission for a subdivision or any development where in its opinion it is uneconomical to provide all requisite services, including road maintenance, garbage pickup and fire protection.

Development on private water and/or waste disposal systems shall be approved by the Department of Government Services and all other appropriate agencies before a permit is issued by the Town. Subdivision and development permits will only be granted when it has been established by the Department of Government Services and/or by the Department of Environment and Conservation that soil and drainage conditions are suitable to permit the proper siting of buildings, to obtain a sufficient and potable water supply and to permit the installation of an adequate means of sewage disposal.

Unless specifically exempted under the Development Regulations – for example agricultural operations or a marina – all new development shall have direct frontage onto a publicly maintained road, or in the case of a new subdivision, shall have frontage on a road being constructed under the terms of a subdivision permit issued by the Council.

4.1.8 Discretionary Uses

Except as otherwise specified in the this Municipal Plan, the Town may determine that a use should be identified as a discretionary use under the Development Regulations, where, in its opinion:

- a) the use is likely to have an impact on the predominant uses of the zone and that in order to mitigate this impact it is desirable to consult with the public and possible affected parties prior to issuing, issuing subject to conditions, or refusing a permit;
- b) that to ensure that the discretionary use is compatible with nearby uses and the predominant uses of the zone it is necessary to attach conditions to an approval that differ from the standard conditions under the Development Regulations.

4.1.9 Environment

In reviewing an application for a permit, the impact of a development on the land, marine and air environment of the Planning Area shall be considered and Provincial policies on the environment adhered to.

A number of these issues are addressed under separate sections of the Municipal Plan.

4.1.10 Forestry Development and Cottage Development

- (1) Forestry uses shall be approved by both the Department of Natural Resources and the Town, together with other appropriate agencies.
- (2) Development within lands shown as Domestic Cutting Areas on the map "Town of Cape Broyle Municipal Plan 2009, Domestic Cutting Areas and Cottage Development Areas" which overlap other designations shall be referred to the Department of Natural Resources, Forestry Resources Branch for approval before a permit is issued by the Town.
- (3) Development within lands shown as Cottage Development Areas on the map "Town of Cape Broyle Municipal Plan 2009, Domestic Cutting Areas and Cottage Development Areas" which overlap other designations shall be referred to the Department of Environment and Conservation, Land Management Division for approval before a permit is issued by the Town.
- (4) The map "Town of Cape Broyle Municipal Plan 2009, Domestic Cutting Areas and Cottage Development Areas" can be altered without amending the Municipal Plan.

4.1.11 Heritage Resources

General

The Town shall conserve and develop its heritage resources and landscapes. This will include a process whereby historic buildings and landscapes are identified and preserved, and new developments are reviewed by Council to ensure that they are compatible with the character of the area between Highway 10 and Cape Broyle Harbour – particularly along Harbour Road. Part of the process may include the establishment of committee to assist Council in design review.

Archaeological Sites

Archaeological sites and discoveries are protected under the *Historic Resources Act, 1985*. If such a site is discovered, development shall stop

and the Provincial Archaeology Office of the Department of Tourism, Culture and Recreation consulted. Also, if any major development is proposed, this Office shall be advised before an approval is granted by the Town so that the necessary research can be carried out before construction begins.

Heritage Sites

Municipal, Provincial or Federal heritage sites and properties shall be protected under the relevant legislation. Permits for alteration shall conform with the intent of the designations, and no demolition shall occur without Town approval and the approval of the designating authorities.

Development adjacent heritage sites shall be reviewed by the Town to ensure that there is no negative visual or other impact on a designated heritage site.

4.1.12 Mineral Exploration

- (1) Subject to the other provisions of this Municipal Plan, mineral exploration which is not classed as development by virtue of appreciable soil disturbance, construction of access roads, noise, odour and appearance can be permitted anywhere in the Town, provided that adequate notification is provided to the Town.
- (2) Mineral exploration which is classed as development shall be permitted in the Rural designation, and is treated as a discretionary use in all other designations, provided that adequate provision is made for buffering /and or other means of reducing or eliminating the impacts of the exploration on uses of land such as agricultural operations, residential uses including farm dwellings, tourist accommodation facilities and important waterways and wetlands.

Where there is soil disturbance, the developer shall provide a site restoration surety and/or other satisfactory guarantees of site landscaping to the Town.

4.1.13 Mineral Workings

Provided that adequate provision is made for screening and/or buffering, environmental protection and site reinstatement, mineral workings may be permitted in Rural designation.

A permit shall be obtained from the Department of Natural Resources, Mineral Lands Division for a mineral working before any approvals are given by the Town.

4.1.14 Parking and Offstreet Loading Areas

Adequate parking and offstreet loading areas shall be provided for all uses unless specifically exempted under the Development Regulations.

4.1.15 Recreational Trails and Walkways, The Track, East Coast Trail

Wherever space and terrain characteristics allow, the appearance and use of well known trails and/or mapped trails, including the East Coast Trail and the Track (rail bed of the former railway) shall be protected by natural vegetation buffers that separate the trail and other forms of development and from hazard areas and areas subject to erosion, such as river and brook banks. The vegetation buffer shall be deep enough to prevent shallow rooted trees being knocked over by wind.

Development shall not be permitted to impede the continued use of known and/or mapped trails.

As a condition of a development permit the Town may require that a trail corridor be deeded to the Town or a non-profit group approved by the Town.

4.1.16 Site Development

Before approving a development, the Town shall consider the adequacy of site grading, drainage and landscaping and the potential of the development to cause erosion onto and pollution of adjacent development and lands and bodies of water receiving run-off from the site, and other similar matters.

The Town shall ensure that the proposal is not inappropriate by reason of:

- a) precipitating or contributing to a pollution problem in the area; or
- b) causing erosion and/or sedimentation.

4.1.17 Southern Shore Highway – Highway 10

(1) Protected Road Zoning Plan

Within the Town boundary, development within 100 metres of the centre-line of the Southern Shore Highway (Route 10) is subject to

review by the Government Service Centre of the Department of Government Services before a permit is issued by the Town. Outside the Town boundary, but within the Cape Broyle Municipal Planning Area boundary, development within 150 metres of the centre-line of the Highway is subject to review by the Government Service Centre of the Department of Government Services before a permit is issued by the Town.

- (2) Building Near Highways Regulation – Southern Shore Highway (Highway 10)

Highway 10 is subject to the Building Near Highways Regulations 1997. No development shall be permitted within 20 metres of the centre-line of the Southern Shore Highway.

4.1.18 Uses Permitted In All Designations

Accessory buildings, accessory uses, antenna, conservation, mineral exploration, public utilities, recreational open space, roads and trails can be allowed in all designations as either permitted or discretionary uses unless specifically prohibited under the designation.

4.1.19 Waterways

- (1) Major waterways, their well-defined tributaries and major wetlands are protected under the Environmental Protection designation.
- (2) Policy Directive W.R. 91-1 of the Department of Environment and Conservation (Infilling of Bodies of Water) states that "any development within 15 metres of the high water mark can only be permitted under "exceptional circumstances" and only then with the approval of the Minister of Environment and Conservation.
- (3) Infilling of very small ponds or freshets that do not appear on 1:50,000 scale Newfoundland topographic maps and where the land is better utilized for agricultural or other purposes may be permitted subject to Section 48 of the Water Resources Act.
- (4) Where there is a conflict between Policy Directive W.R. 91-1 and the provisions of the Municipal Plan, the more restrictive policies shall apply. A copy of Policy Directive W.R. 91-1 is contained in Appendices.

- (5) Any activity that has the potential to affect fish habitat shall be sent to Fisheries and Oceans Canada for review.
- (6) A protective buffer of undisturbed soil and vegetation shall be preserved along the shoreline of all except very minor waterways and drainage courses. The buffer shall be sufficient to prevent erosion, retain natural drainage features, prevent siltation, preserve public access and protect fish habitat.
- (7) The only uses that can be permitted in the buffer area of a waterway are roads, driveways, public utilities, recreational open space and trails and uses requiring direct access to a body of water, such as wharves and docks and other marine related uses.
- (8) Development, and this includes placing fill or other materials, within a waterway and the buffer area of a waterway and alteration of a waterway is subject to the approval of the Town, the Provincial Government, and where necessary, the Government of Canada.
- (9) The Town shall be satisfied that adequate, usable and legal public access to a waterway is retained before issuing a permit for development adjacent a waterway. This access can take the form of a boat launch area, an area habitually used by swimmers, a lookout on a trail, a winter trail ice crossing site and similar facilities. See also Section 4.1.15 of this Municipal Plan.

4.1.20 Wetlands

- (1) Wetlands larger than a hectare in area as determined from aerial photography analysis are protected by the Environmental Protection designation along with those wetlands that are adjacent, attached to, or form part of a waterway.
- (2) The general provincial policy on wetlands is contained in Policy Directive W.R. 97-2 – Development in Wetlands – of the Department of Environment and Conservation. Where there is conflict between the provisions of the Municipal Plan and the Policy Directive, the more restrictive policy shall apply.
- (3) Any development within a wetland or the buffer of a wetland shall require the approval of the Minister of Environment and Conservation

as well as the Town whether or not that wetland is designated Environmental Protection under the Municipal Plan.

- (4) Wetlands which are not subject to the Environmental Protection designation are subject to Policy Directive 97-1 – Development in Wetlands – of the Department of Environment and Conservation. This Policy Directive is set out in the Appendices.

4.1.21 Wind Mills, Wind Turbines and Wind Farms, Other Energy Sources

Wind mills, wind turbines, wind farms and other energy forms, including solar based and small hydro generating facilities can be entertained as a use within the Planning Area.

This Plan provides scope for smaller alternate energy enterprises and household oriented power production facilities.

Utilities, which include wind mill, wind turbines, wind farms, and other energy generating systems that do not fall under the definition of a public utility, together with access roads and associated facilities, are subject to the approval of relevant provincial and federal departments and agencies and public utilities. The design and location of such utilities shall take into consideration their impact on nearby land uses and persons, the environment and archaeological resources within the Town, along with other matters that the Town may deem to be significant. For example, to prevent damage to persons and properties due to the failure of windmill or any of its components or the shedding of ice, the Town shall ensure that there is adequate separation distance between the windmill and nearby structures and properties.

The design, construction and location of a windmill or other utility shall be certified by a competent professional who has consulted with the required agencies.

4.2 Mixed Development Designation

The Mixed Development designation of land means that the predominant use of the land in the areas so designated is residential except along the Southern Shore Highway, areas along the developed sections of the Harbour, and other areas suited for commercial and industrial development and marine related industries.

Non-residential uses, including agriculture, indoor and outdoor assembly (including campgrounds), commercial, industrial, public (government offices and facilities,

schools, churches, medical clinics, etc.) and agricultural uses can be allowed as either permitted or discretionary uses.

General industry is a discretionary use. Hazardous industry (fuel storage tanks, chemical storage tanks, manufacturing processes that emit toxic fumes or waste, etc.) is not permitted except as accessory to a use such as a fish plant or service station or other permitted or discretionary use.

Council may require a buffer strip to be maintained between any residential and non-residential uses and that suitable screening and access is provided.

4.3 Rural Designation

Agriculture, forestry, and other resource based and accessory uses are permitted in the Rural Designation. Seasonal residences and utilities can be allowed as discretionary uses. Development in this designation is not required to front on a public road.

4.4 Environmental Protection Designation

The Environmental Protection designation is primarily applied to well-defined areas along or around selected waterways and wetlands to ensure that their integrity is maintained.

Only those uses which are entirely compatible with the conservation of environmentally sensitive areas can be allowed within this designation. Conservation uses are permitted uses in this designation.

Also, subject to the appropriate approvals and reviews, roads and public utilities, access to properties outside this designation, recreational open space and trails and accessory uses, and uses requiring direct access to a body of water can also be permitted in this designation.

All development in this designation is subject to the approval of the Department of Environment and Conservation and other provincial and federal agencies as required, including where necessary, Fisheries and Oceans Canada.