

Regional Service Commission 11 Planning Review and Adjustment
Committee By-Law and Operating Procedures

**Planning Review and Adjustment Committee By-law
(PRAC 5)**

Regional Service Commission 11

Date Approved: May 28, 2020

Signature (Chairperson of RSC): _____

Executive Director of RSC: _____

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1. General Purpose and Authority:

The purpose of this by-law is to set out the structure and operating procedures for the Planning Review and Adjustment Committee (PRAC) of Regional Service Commission 11. The Regional Service Commission 11 established this Committee to carry out the necessary advisory and decision-making functions as specified in the *Community Planning Act* and outlined in Appendix A of this by-law.

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2. Definitions:

Regional Service Commission (hereinafter referred to as the RSC): Regional Service Commission 11 established per Regulation 2012-91 under the *Regional Service Delivery Act*.

RSC Board: The Board of Directors of Regional Service Commission 11.

Community Planning Act: Assented to on May 5, 2017, ch. 19.

Regional Service Delivery Act: Statutes of New Brunswick, 2012, Chapter 37

Application: Refers to an application submitted for the views and / or decision of the Planning Review and Adjustment Committee, pursuant to the provisions of the *Community Planning Act*.

Member: Unless otherwise specified reference to a member in this by-law shall mean a member of the Regional Service Commission's Planning Review and Adjustment Committee.

3. Establishment:

The RSC Board shall be responsible for the establishment of the Planning Review and Adjustment Committee(s) and for appointing the members of this Committee.

4. Number of Planning Review and Adjustment Committees:

There shall be one Planning Review and Adjustment Committee to serve the region to be covered by Regional Service Commission 11.

5. Composition and Appointments:

5.1 The Planning Review and Adjustment Committee shall consist of 12 members.

5.2 The Board of the Regional Service Commission shall appoint individuals to the Planning Review and Adjustment Committee on the basis of the following criteria:

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- Committee members must reside in a community that is receiving local planning services from the Regional Service Commission.
- No more than 50% of the Planning Review and Adjustment Committee membership shall be made up of municipal council members and rural community council members.
- One member of the Planning Review and Adjustment Committee shall be a Board member of the Regional Service Commission.
- Membership on the Planning Review and Adjustment Committee should take into account, as much as possible, representation on a geographic basis.
- Committee members should have some basic knowledge of the land development trends, practices and issues and local government functions as well as experience on volunteer-based committees. In addition the RSC, in establishing the Committee membership should seek a diversity of interests and backgrounds.
- Members named to the Planning Review and Adjustment Committee must be eligible to vote in Provincial elections [see 43(1) of *Elections Act*].

5.3 The names of the individuals on the Planning Review and Adjustment Committee shall be posted on the RSC's web site and the Chairperson and Vice-Chairperson of this Committee shall also be identified.

5.4 The members appointed to the Planning Review and Adjustment Committee, are to be considered as "at-large" members who are participating in decision-making and advisory services for the whole area covered by the Planning Review and Adjustment Committee. They do not represent the specific community from which they were appointed even though it is expected that they will bring greater understanding and knowledge of their areas.

6. Terms of Office

6.1 The regular term of office for members of the Planning Review and Adjustment Committee shall be three years.

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6.2 Planning Review and Adjustment Committee members may be reappointed for two additional three-year terms, following their initial appointments.

7. Operating Procedures

The Planning Review and Adjustment Committee shall conduct its business in accordance with the guidelines as set out in Appendix B.

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Appendix A – Role of the Planning Review and Adjustment Committee of an RSC

The Planning Review and Adjustment Committee of an RSC performs both a decision-making (quasi-judicial) and an advisory role on behalf of communities. The role of the Planning Review and Adjustment Committee is critical to the ongoing administration of land use plans (municipal and rural) and of zoning by-laws and the decisions made by this Committee can have significant impacts on how development occurs within a community. As such, the role and proper functioning of the Planning Review and Adjustment Committee must be given due care and attention in both its establishment and in its ongoing work. The functions of this type of committee are identified in various sections of the *Community Planning Act*. The following table highlights these functions and the corresponding references to the *Community Planning Act*.¹

Functions	Reference to CPA
▪ to advise and make recommendations to the council or rural community council on any matter relating to community planning	4(b)
▪ Make recommendations to Council on the laying out of public or future streets	77(1)(g)
▪ Provide an opinion as to whether a site is unsuitable for a proposed purpose by virtue of its soil or topography	53(2)(h)
▪ Permit a prohibited development for a temporary period	53(2)(i)
▪ Impose terms & conditions for a particular purpose if permitted by the zoning by-law	53(3)(c)(i)
▪ Permit, subject to terms & conditions, a proposed use if such use is sufficiently similar to or compatible with a permitted use	55(1)(a)
▪ Permit such reasonable variance from the requirements of the zoning by-law	55(1)(b)

¹ Note that specific functions have been summarized and that the precise legal wording is found in the Community Planning Act per the provision references noted in the second column.

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Responsibility	Reference to CPA
▪ Permit a non-conforming use to continue beyond the ten month period	60(2)(a)
▪ Permit a structure to be repaired or restored if it has non-conforming rights and destroyed more than 50%	60(2)(b)
▪ Provide consent for a non-conforming use to extend into a portion of a structure that was constructed after the by-law is in effect	60(3)
▪ Provide consent for a non-conforming use to be changed to a similar non-conforming use	60(4)
▪ Approve such access other than a public street that they feel is advisable for the development of land	75(1)(c)(ii)
▪ Provide an opinion whether land is suited for the purpose intended	75(1)(k)(i)
▪ Provide their opinion as to whether a proposed manner of subdividing prejudices the convenient subdivision of adjoining land	75(1)(k)(ii)
▪ Approval of the naming of streets if given authority in the subdivision by-law	75(1)(l)
▪ Permit such reasonable variance from the requirements of the subdivision by-law	78(1)(a)
▪ May give notice to owners of land in the neighborhood of the proposed subdivision in which a variance has been requested	78(3)
▪ Refuse to grant an exemption from subdivision by-law	80(2)
▪ Consultation on the approval of the names of streets in a subdivision	84(7)
▪ Recommend the location of public streets or lands for public purposes shown in a subdivision plan	88(4)
▪ Provide its views on any proposed by-law if not previously given	110(1)(a)

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Appendix B – Operating Procedures

1. Selection of Chairperson and Vice-Chairperson:

1.1 At the first meeting of the calendar year the members shall elect from among their number a Chairperson and Vice-Chairperson for a term of one year. The election shall be done by ballot and administered by the Planning Director/General Manager or their delegate.

1.2 The first meeting of the Planning Review and Adjustment Committee shall be chaired by the Planning Director (or General Manager of Planning if such position has been established) for the Regional Service Commission. All future meetings shall be chaired by the Chairperson or Vice-Chairperson of the Planning Review and Adjustment Committee.

1.3 Nominations shall be made from the members and election of the Chairperson and Vice-Chairperson shall follow immediately thereafter.

1.4 A candidate receiving the most votes from among the membership shall be declared elected and shall serve for a one year term. The Chairperson and Vice-Chairperson may be elected for two (2) additional one year terms.

1.5 Vacancies for Chairperson and Vice-Chairperson shall be filled immediately by the election procedure outlined herein.

2. Chairperson Duties and Replacement

2.1 The Chairperson shall chair or preside at all meetings of the Planning Review and Adjustment Committee and otherwise carry out the duties and responsibilities of the office.

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2.2 Annually, by no later than February 28th, the Chair shall prepare and submit a report to the Board summarizing the Committee's activities for the previous calendar year. This report is to include any recommended changes the committee believes may be appropriate to its by-law.

2.3 The Vice-Chairperson shall act as Chairperson in the absence of the Chairperson.

2.4 In the absence of the Chairperson and Vice-Chairperson, a Chairperson for that meeting shall be named through a vote of the members present.

3. Regular Meetings:

3.1 Regular meetings of the Planning Review and Adjustment Committee shall normally be held monthly on the last Tuesday of every month. The annual schedule along with the deadline date for acceptance of applications for each meeting will be posted on the Commission website.

3.2 If the Planning Director (or General Manager of Planning if such position has been established) determines that the volume of agenda items necessitates the scheduling of an additional meeting to deal with the Planning Review and Adjustment Committee's business in a timely manner, such a meeting shall be held at a time determined by the Chairperson. If the Planning Director (or General Manager of Planning), in consultation with the Chairperson, determines that the volume of agenda items does not warrant the holding of a regular meeting, the meeting shall be cancelled and appropriate notice of the meeting cancellation shall be provided to the members of the Committee.

3.3 All regular and additional meetings of the Planning Review and Adjustment Committee will begin at 5:00 p.m., and will be held at a location determined by the Chair.

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3.4 Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call a special meeting when requested to do so by a majority of the members of the Planning Review and Adjustment Committee.

3.5 Notice of special meetings shall be given by mail (or email) to the members. However, such notice may be given by phone when the Chairperson deems it urgent to meet within a period insufficient for the giving of notice by mail or email.

3.6 In the event a question relating to the procedure arises, Roberts Rules of Order, Revised shall govern the Committee in all procedural matters not otherwise covered by this or any other Commission by-law, or by the Act or Regulations.

3.7 All meetings of the Planning Review and Adjustment Committee including both discussions and voting, shall be open to the public, except in circumstances where legal advice or instructions are being provided.

3.8 A quorum for the Planning Review and Adjustment Committee shall be a simple majority of the entire membership of this Committee and quorum must be achieved before a meeting of the Planning Review and Adjustment Committee begins.

4. Agenda Establishment and Decision-Making

4.1 The Planning Director/General Manager of Planning in conjunction with the RSC Development Officer(s) shall prepare the agenda for the Planning Review and Adjustment Committee. The deadline for determining the items to be included on the regular meeting agenda of the Planning Review and Adjustment Committee shall normally be four weeks prior to the scheduled meeting but in any case the annual schedule of meetings will be established for the year and published on the Commission Website.

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4.2 The order of business shall be set out in the agenda, which shall be sent to the members of the Planning Review and Adjustment Committee one week prior to the meeting. Members shall also be provided with the necessary staff reports relating to each item on the agenda. The Planning Review and Adjustment Committee may change the order of agenda items, but only by majority vote of the members present.

4.3 The agenda will be posted on the RSC's website once it is sent to the Planning Review and Adjustment Committee members and will also be available for the public at RSC offices. Staff reports associated with each agenda item shall also be available to the public.

4.4 An item not on the agenda may be brought to the meeting by RSC planning staff but must be added to the agenda by majority vote of the Planning Review and Adjustment Committee members present. This practice should only be considered under exceptional circumstances as otherwise public access to consideration of the matter could be compromised and usually only for cases where no public consultation would likely be involved (i.e. the location of roads in a subdivision application).

4.5 Remarks by the members shall be addressed through the Chairperson and not more than one member shall speak at any one time.

4.6 The Chairperson shall adhere to the following process for each application to be reviewed by the Planning Review and Adjustment Committee:

- i) The Chairperson will call the agenda item by identifying the name of the applicant and the address of the subject property.
- ii) RSC planning staff will provide a brief overview of the application including a summary of the staff recommendation.
- iii) The Chairperson shall invite the applicant or their representative to make a presentation to the Planning Review and Adjustment Committee in support of their application.

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- iv) The Chairperson will then invite others present in the room (other than members of the Planning Review and Adjustment Committee and RSC planning staff) to speak in support of the application.
- v) Any person wishing to speak in opposition to an application will be given an opportunity to address the Planning Review and Adjustment Committee although a group spokesperson is also considered appropriate.
- vi) The Chairperson will provide the applicant with an opportunity to respond to the issues raised by those speaking against the application.

4.7 The applicant as well as anyone wishing to speak either in support or in opposition to the application may be asked by the Chair to limit their presentation to a specific time frame. No additional time shall be provided unless approved by a majority vote of the Planning Review and Adjustment Committee members present.

4.8 Planning Review and Adjustment Committee members may question any person addressing the Committee.

4.9 Decisions on all items on the agenda of the Planning Review and Adjustment Committee shall be made by motion in open session and with the exception of the approval of the agenda and the minutes of the meetings, shall include reasons for the decisions.

4.10 Every member who is present in the room when a question is put forward shall vote thereon unless they declare themselves to have a conflict of interest. If any member persists in refusing to vote for reasons other than the aforementioned, that member shall be recorded as voting in the affirmative on the question before the Committee. In the case of a tie vote, the motion is lost.

4.11 The Planning Director shall designate an individual of his or her staff to serve as recording secretary of the Planning Review and Adjustment Committee.

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4.12 The recording secretary shall keep notes on the Planning Review and Adjustment Committee's proceedings and record all motions and include movers, seconders and the disposition of each motion including the reasons provided by the Planning Review and Adjustment Committee for its decision.

4.13 All decisions / advice shall be sent to the applicant in writing within five working days (time frame to send applicant the decision / advice) of the meeting of the Planning Review and Adjustment Committee. As well, members of the public in attendance at the meeting or who have submitted written comments shall also be sent the decision within this same time frame.

4.14 The minutes are to be made available to the public after they are approved by the Planning Review and Adjustment Committee.

4.15 Draft minutes are to be signed by the Director of Planning (or designate and the recording secretary. Approved minutes of the Planning Review and Adjustment Committee meetings are to be signed by the Chairperson.

5. Applications to Planning Review and Adjustment Committee

5.1 The Planning Review and Adjustment Committee will only consider applications that are fully completed including any supporting documentation, to the satisfaction of the Development Officer / Planning Director.

5.2 The applications within the jurisdiction of the Planning Review and Adjustment Committee received by the RSC's Planning Department shall be placed on the agenda with a report prepared under the direction of the Planning Director with a recommendation.

5.3 The applicant will be advised of the date proposed for the Planning Review and Adjustment Committee meeting and the availability of a staff report two days prior to the meeting.

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5.4 Where notice is given to neighbouring properties, they shall be provided notice of the availability of the staff report in accordance with 5.3 above.

5.5 An application which has been submitted to the RSC's Planning Department may be withdrawn at any time prior to the agenda being finalized.

5.6 After the agenda has been finalized, a request to withdraw an item submitted to the Planning Department shall be made by the person(s) making the original application (i.e., the proponent) in writing or in person to the Planning Director (or designate) and the item shall be removed from the agenda.

5.7 An application which has been referred to the Planning Review and Adjustment Committee by a Council can be withdrawn by the applicant, normally in writing to the Planning Director or designate. The Planning Director or designate, at his or her discretion may accept a verbal request to withdraw.

5.8 When an application has been received which seeks approval of a matter which has been denied by the Planning Review and Adjustment Committee within the last year, it will not be reconsidered by the Planning Review and Adjustment Committee unless the Planning Review and Adjustment Committee is of the opinion that there is new evidence or a change in conditions.

6. Notice Requirements for Affected Property Owners

6.1 Property owners within 100 metres of a property which is the subject of an application shall be notified by mail or personal delivery, of the meeting time, date, location of the meeting and nature of the application that will be considered. At the discretion of staff, a wider range of notification may be undertaken if the application is considered to present conditions or ramifications which are broader than normal.

6.2 The notice will indicate that their view can be made by any means of correspondence or in person before the Planning Review and Adjustment Committee at the meeting. All letters received will be public documents and they must be signed. The Planning Review and Adjustment Committee will not accept

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any unsigned letters.

6.3 The notice will be mailed or delivered at least two weeks prior to the meeting date.

6.4 The notice will indicate that a staff report will be available and where it can be viewed / obtained.

7. Reporting Requirements

7.1 Copies of the approved minutes of the meetings of the Planning Review and Adjustment Committee shall be provided to the RSC for information purposes and shall be posted on the RSC web site.

7.2 Municipal and rural community clerks shall be supplied with the decisions made by the Planning Review and Adjustment Committee that affect their respective communities, within five business days of the meeting at which such decisions were made. Notice of such decisions shall be signed by the Director of Planning.

7.3 Annually, the Planning Review and Adjustment Committee shall submit a report to the RSC Board which shall provide information regarding the applications it has reviewed and other advisory activities it has undertaken. This report shall be prepared by RSC planning staff and shall be signed by the Chairperson.

8. Member attendance

8.1 In the event that a member of the Planning Review and Adjustment Committee is unable to attend a regular meeting of the Planning Review and Adjustment Committee, he or she shall notify the Planning Director (or designate) or the Chairperson.

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8.2 Where a member misses three consecutive regular meetings of the Planning Review and Adjustment Committee, the Chairperson shall advise the RSC Board and the RSC Board shall assess the situation and determine the appropriate steps to be taken with respect to this member's continued membership on the Planning Review and Adjustment Committee.

9. Expenses and Per diems

9.1 The directors shall be reimbursed for mileage and meals related to the attendance at Commission or committee meetings or otherwise in respect of the performance by them of their duties. The rate for reimbursement shall be at the rates established from time to time by the Province of New Brunswick.

9.2 Members will be paid a per diem of \$100.00 for attendance at a regular, additional or special meeting of the Planning Review and Adjustment Committee.

9.3 The Chairperson of the Planning Review and Adjustment Committee shall receive a per diem of \$125.00 for attendance at a regular, additional or special meeting of the Planning Review and Adjustment Committee.

9.4 When the Vice Chair is acting on behalf of the Chair he or she shall receive remuneration at the rate for the Chair (\$125.00 per meeting).

10. Conflict of Interest

10.1 Upon appointment to the Planning Review and Adjustment Committee and annually thereafter, each Committee member shall, in the form prescribed by the RSC, complete and file with the Secretary of the RSC a "Statement of Disclosure". This Statement shall include identification of interests, activities, involvements and other aspects related to the member which could potentially involve a conflict with regards to the operation and matters of the Committee. When there

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are changes to this Statement, the Committee member must ensure that the Statement is updated as necessary.

10.2 In the event that a member of the Planning Review and Adjustment Committee finds himself or herself in a conflict of interest (as defined under the *Municipalities Act*), he or she shall not participate in the discussions or decisions relating to the matter at hand and shall leave the meeting room for the period of time during which this matter is being addressed.

10.3 If at all possible, conflicts of interest shall be declared at the beginning of the Planning Review and Adjustment Committee meetings. (The agenda for the Planning Review and Adjustment Committee should have this included as a standard item).

10.4 A member who has declared an interest relative to an aspect of the agenda of the Committee shall vacate the meeting room for any and all consideration of that matter.

10.5 In the event that quorum will be lost if a certain number of members declare a conflict of interest on a matter before the Planning Review and Adjustment Committee, the remaining members will be deemed to be sufficient in number to comprise a quorum, as long as the number of remaining members does not fall below three.