

***Regional Service Commission 5 - Planning Review and  
Adjustment Committee By-Law and Operating Procedures***

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

**Regional Service Commission 5**

Date approved: DEC. 3, 2012

Chairperson: Mary Cormier

Secretary: Elizabeth Bowes

Transition Leader Pat Inall

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## **1. General Purpose:**

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 5. This Committee, to be established by Regional Service Commission 5, will carry out the necessary advisory and decision-making functions as specified in the Regional Services Delivery Act and 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 5 established per Regulation under the *Regional Service Delivery Act*.

**RSC Board:** The Board of Directors of Regional Service Commission 5.

**Community Planning Act:** Revised Statutes of New Brunswick, 1973, Chapter C-12)

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

**Application:** Refers to an application submitted for the 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.

**Director:** Refers to the Planning Director appointed by the Commission pursuant to the Regional Services Delivery Act.

## **3. Establishment:**

The RSC Board or the interim Board shall be responsible for the establishment of the Planning Review and Adjustment Committee 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 5. Appendix B contains a

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map designating the areas to be covered by the Planning Review and Adjustment Committee as well as a listing of the communities covered by the Planning Review and Adjustment Committee.

### **Composition and Appointments:**

**5.1** The Planning Review and Adjustment Committee shall consist of seven members. eight

**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:

- 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, rural community council members and local service district advisory committee 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.

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**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 are not to be seen as representing the specific community from which they were appointed even though it is expected that they will bring greater understanding and knowledge of their area.

**5.5** Notwithstanding **5.1**, the Planning Review and Adjustment Committee shall be valid if there are less than six appointed to the committee or if a vacancy shall occur, as long as the number of members attending a meeting constitutes four.

### **6 Terms of Office**

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

**6.2** For the first appointments to the Planning Review and Adjustment Committee, the appointments shall be staggered, with three members being appointed for a term to end on June 30, 2016 and four members being appointed for a term to end on December 31, 2014. All subsequent terms of office shall be four years.

**6.3** Planning Review and Adjustment Committee members may be reappointed for one additional four-year term, following their initial appointments.

### **7. Operating Procedures**

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

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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 the Regional Services Delivery Act, which references various sections of the *Community Planning Act*. The following table highlights these functions and the corresponding references to the *Community Planning Act*. Note that the 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.

<b>Functions</b>	<b>Reference to CPA</b>
<ul style="list-style-type: none"> <li>▪ to advise and make recommendations to the council or rural community council on any matter relating to community planning;</li> </ul>	13(b)
<ul style="list-style-type: none"> <li>▪ Make recommendations to Council on the laying out of public or future streets</li> </ul>	44 (1)(g)
<ul style="list-style-type: none"> <li>▪ Provide an opinion as to whether a site is unsuitable for a proposed purpose by virtue of its soil or topography</li> </ul>	34(3)(g)
<ul style="list-style-type: none"> <li>▪ Permit a prohibited development for a temporary period</li> </ul>	34(3)(h)
<ul style="list-style-type: none"> <li>▪ Impose terms &amp; conditions for a particular purpose if permitted by the zoning by-law</li> </ul>	34(4)(c)(i)
<ul style="list-style-type: none"> <li>▪ Permit, subject to terms &amp; conditions, a proposed use if such use is sufficiently similar to or compatible with a permitted use</li> </ul>	35(1)(a)
<ul style="list-style-type: none"> <li>▪ Permit such reasonable variance from the requirements of the zoning by-law</li> </ul>	35(1)(b)

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<b>Responsibility</b>	<b>Reference to CPA</b>
▪ Permit a non-conforming use to continue beyond the ten month period	40(2)(a)
▪ Permit a structure to be repaired or restored if it has non-conforming rights and destroyed more than 50%	40(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	40(3)
▪ Provide consent for a non-conforming use to be changed to a similar non-conforming use	40(4)
▪ Approve such access other than a public street that they feel is advisable for the development of land	42(3)(c)
▪ Provide an opinion whether land is suited for the purpose intended	42(3)(k)(i)
▪ Provide their opinion as to whether a proposed manner of subdividing prejudices the convenient subdivision of adjoining land	42(3)(k)(ii)
▪ Approval of the naming of streets if given authority in the subdivision by-law	42(3)(l)
▪ Permit such reasonable variance from the requirements of the subdivision by-law	46(1)(a)
▪ May give notice to owners of land in the neighborhood of the proposed subdivision in which a variance has been requested	46(2)
▪ Refuse to grant an exemption from subdivision by-law	48(3)
▪ Consultation on the approval of the names of streets in a subdivision	52(7)
▪ Recommend the location of public streets or lands for public purposes shown in a subdivision plan	56(2)
▪ Provide its views on any proposed by-law if not previously given	66(1)(a)

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**Appendix B – Map and Listing of Communities Covered by Planning Review and  
Adjustment Committee**

**Municipalities**

Village of Blackville  
Village of Doaktown  
Miramichi

**Rural community**

Upper Miramichi

**Local service districts**

the parish of Alnwick  
Baie Ste. Anne  
Black River-Hardwicke  
the parish of Blackville  
the parish of Blissfield  
the parish of Chatham  
the parish of Derby  
Escuminac  
the parish of Glenelg  
the parish of Hardwicke  
Lower Newcastle-Russellville  
the parish of Nelson  
the parish of Newcastle  
the parish of North Esk  
Oak Point-Bartibog Bridge  
Renous-Quarryville  
the parish of South Esk  
St. Margarets  
Sunny Corner





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## **Appendix C – Operating Guidelines**

### **1. Selection of Chairperson and Vice-Chairperson:**

**1.1** The Chairperson and Vice-Chairperson shall be selected by and from among the members of the Planning Review and Adjustment Committee at its first meeting.

**1.2** The first meeting of the Planning Review and Adjustment Committee shall be chaired by the Planning Director (or designate) until the Chair and Vice Chair are elected. 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 two years or until a successor is elected.

**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.

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

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**2.3** 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 third 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's website.

**3.2** If the Planning Director (or designate) in consultation with the Chair 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 designate), in consultation with the Chairperson, determines that the volume of agenda items does not warrant the holding of a regular meeting, the Chair shall cancel the meeting 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. or other such time as determined by the Committee and will be held at a location determined by the Chair.

**3.4** Special meetings may be called by the Chairperson. It shall also be the duty of the Chair 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.

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**3.6** Except as may otherwise be provided under this part, the Rules of Procedure for regular meetings shall also apply to special meetings.

**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.

**3.9** Unless or otherwise specified ***Roberts Rules of Order-Revised*** shall govern the proceedings of meetings of the Planning Review and Adjustment Committee.

### **4. Agenda Establishment and Decision-Making**

**4.1** RSC planning staff 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 rule will be established by the PRAC for the year and published on the Commission Website.

**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

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available for the public at RSC offices. Staff reports associated with each agenda item shall also be available to the public.

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

**4.5** The Chairperson shall adhere to the following process for each application to be review 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 to make a presentation to the Planning Review and Adjustment Committee in support of their application.
- 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.

**4.6** The applicant as well as anyone wishing to speak either in support or in opposition to the application may be asked 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.

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- 4.7** Planning Review and Adjustment Committee members may question any person addressing the Committee.
- 4.8** 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.
- 4.9** All members shall vote on motions (other than those members who determine they are in a conflict of interest), including the Chairperson. In the case of a tie vote, the motion is lost.
- 4.10** The Planning Director shall designate an individual of his or her staff to serve as recording secretary of the Planning Review and Adjustment Committee.
- 4.11** 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.
- 4.12** 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.
- 4.13** The minutes are to be made available to the public after they are approved by the Planning Review and Adjustment Committee.

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**4.14** 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 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 no later than two working days prior to the meeting.

**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 that 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 PRAC 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. Application fees are non refundable.

**5.7** An application which has been referred to the Planning Review and

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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 30 metres of a property in an incorporated area 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 the Director, 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** Property owners within 100 metres of a property in an unincorporated area 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 the Director, a wider range of notification may be undertaken if the application is considered to present conditions or ramifications which are broader than normal.

- 6.3** 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 correspondence received will be public documents and they must be signed. The Planning Review and Adjustment Committee will not accept any unsigned letters.

- 6.4** The notice will be mailed at least 10 days or delivered at least one week prior to the meeting date.



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**6.5** The notice will indicate that a staff report will be available and where it can be viewed or 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 may be posted on the RSC or other web site.

**7.2** Municipal, rural community clerks, and Local Service Managers 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. The Planning Director or his or her designate shall sign notice of such decisions.

**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 Director or his or her designate and shall be signed by the PRAC 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 PRAC Chairperson shall advise the RSC Board and the RSC Board shall assess the situation and determine if appropriate steps need to be taken with respect to this member's continued membership the Planning Review and Adjustment Committee.

### **9. Amendments to the Regional Planning Advisory Review Committee By-law**

**9.1** The Planning Review and Adjustment Committee and Director may make recommendations to the RSC Board for amendments to the Planning Review and Adjustment Committee By-law.

**9.2** The RSC Board shall determine, in consultation with the Director and the Planning Review and Adjustment Committee members, the changes to be made to this by-law.

### **10. Expenses and Per diems**

**10.1** 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.

**10.2** Members will be paid a per diem of \$75 for attendance at a regular, additional or special meeting of the Planning Review and Adjustment Committee.

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**10.3** The Chairperson of the Planning Review and Adjustment Committee shall receive a per diem of \$100 for attendance at a regular, additional or special meeting of the Planning Review and Adjustment Committee.

**10.4** Should the Commission's board request Committee members or its chairperson to attend other meetings or sessions in the performance of their duties, they shall be paid in accordance with sections 10.2 and 10.3.

### **11. Conflict of Interest**

**11.1** 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.

**11.2** 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).

**11.3** 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.

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**11.4** 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.