

Planning Review and Adjustment Committee By-law and Operating
Procedures - Region 8

Planning Review and Adjustment Committee By-law

Regional Service Commission 8

Date Approved:

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Chairperson of RSC8:

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[Signature]

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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 of Regional Service Commission 8. This Committee, to be established by Regional Service Commission 8, will 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.

2. **Definitions:**

Regional Service Commission (hereinafter referred to as the RSC): Regional Service Commission 8 established per Regulation 2012-91 under the Regional Service Delivery Act.

RSC Board: The Board of Directors of Regional Service Commission 8.

Community Planning Act: Statutes of New Brunswick, 2017, Chapter 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.

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3. Establishment:

The RSC Board shall be responsible for the establishment of the Regional 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 Review Committee to serve the region to be covered by Regional Service Commission 8. Appendix B contains a 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.

5. Composition and Appointments:

5.1 The Planning Review and Adjustment Committee shall consist of nine (9) members.

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

a) Committee members must reside in a community that is receiving local planning services from the Regional Service Commission.

b) There shall be at least one member of the Planning Review and Adjustment Committee who resides in a municipality/rural community and at least one member who resides in a local Service District.

c) 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.

d) One member of the Planning Review and Adjustment Committee shall be a Board member of the Regional Service Commission.

e) Membership on the Planning Review and Adjustment Committee should take into account, as much as possible, representation on a geographic basis.

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f) The Committee membership should represent a diversity of backgrounds and interests. It is an advantage that Committee members have some basic knowledge of the planning and local government functions, and/or experience on volunteer-based committees.

g) 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 PRAC shall appoint a committee to undertake the task of filling a vacancy on PRAC when it becomes necessary in order to make a recommendation to the RSC8 Board.

5.4 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.

5.5 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 region.

5.6 If the past chair's term has not expired, he or she shall serve on the Committee as a full member with voting privileges until the end of his or her term.

6. Terms of Office

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

6.2 For the inaugural appointments to the Planning Review and Adjustment Committee, the appointments shall be staggered, with a third of the members being appointed for a one year term, one third for a two year term, and one third for a three year term.

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

6.4 When a vacancy occurs, the replacement member will begin by finishing the term of the member who has left.

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7. Operating Procedures

The Planning Review and Adjustment Committee shall 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 a 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 (PRAC) is critical to the ongoing administration of land use plans (municipal and rural) and of zoning by-laws and zoning provisions. The decisions and recommendations made by this Committee are guided by these land use plans, the provisions of the Community Planning Act and any regulations thereunder. Decisions of the PRAC must take into account the impact of development on 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* which may be amended from time to time. *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.*

Functions	Reference to CPA
<ul style="list-style-type: none"> • To advise and make recommendations to the council on matters relating to community planning; 	4(b)
<ul style="list-style-type: none"> • Make recommendations to Council on the laying out of public or future streets 	77 (l)(g)
<ul style="list-style-type: none"> • Provide an opinion as to whether a site is unsuitable for a proposed purpose by virtue of its soil or topography 	53(2)(h)
<ul style="list-style-type: none"> • Permit a prohibited development for a temporary period 	53(2)(i)(i)
<ul style="list-style-type: none"> • Impose terms & conditions for a particular purpose if permitted by the zoning by-law 	53(3)(c)(i)
<ul style="list-style-type: none"> • Permit, subject to terms & conditions, a proposed use if such use is sufficiently similar to or compatible with a permitted use 	55(1)(a)

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<ul style="list-style-type: none"> Permit such reasonable variance from the requirements of the zoning by-law 	55(1)(b)
<ul style="list-style-type: none"> Permit a non-conforming use to continue beyond the ten month period 	60(2)(a)

Responsibility	Reference to CPA
<ul style="list-style-type: none"> Permit a structure to be repaired or restored if it has non-conforming rights and destroyed more than 50% 	60(2)(b)
<ul style="list-style-type: none"> 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)
<ul style="list-style-type: none"> Provide consent for a non-conforming use to be changed to a similar non-conforming use 	60(4)
<ul style="list-style-type: none"> Approve such access other than a public street that they feel is advisable for the development of land 	75(1)(c)
<ul style="list-style-type: none"> Provide an opinion whether land is suited for the purpose intended 	75(3)(k)(i)
<ul style="list-style-type: none"> Provide their opinion as to whether a proposed manner of subdividing prejudices the convenient subdivision of adjoining land 	75(3)(k)(ii)
<ul style="list-style-type: none"> Approval of the naming of streets if given authority in the subdivision by-law 	75(3)(l)
<ul style="list-style-type: none"> Permit such reasonable variance from the requirements of the subdivision by-law 	78(1)(a)
<ul style="list-style-type: none"> May give notice to owners of land in the neighborhood of the proposed subdivision in which a variance has been requested 	78(3)
<ul style="list-style-type: none"> Refuse to grant an exemption from the subdivision by-law 	80(2)
<ul style="list-style-type: none"> Consultation on the approval of the names of streets in a subdivision 	84(7)
<ul style="list-style-type: none"> Recommend the location of public streets or lands for public purposes shown in a subdivision plan 	88(4)
<ul style="list-style-type: none"> Provide its views on any proposed by-law if not previously given 	110(1)(a)

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Appendix B-Listing of Communities Covered by Regional Planning Review and Adjustment Committee(s)

LSD of Brunswick

LSD of Cardwell

LSD of Hammond

LSD of Hampton

LSD of Havelock

LSD of Johnston

LSD of Kars

LSD of Norton

LSD of Studholm

LSD of Springfield

LSD of Sussex

LSD of Upham

LSD of Waterford

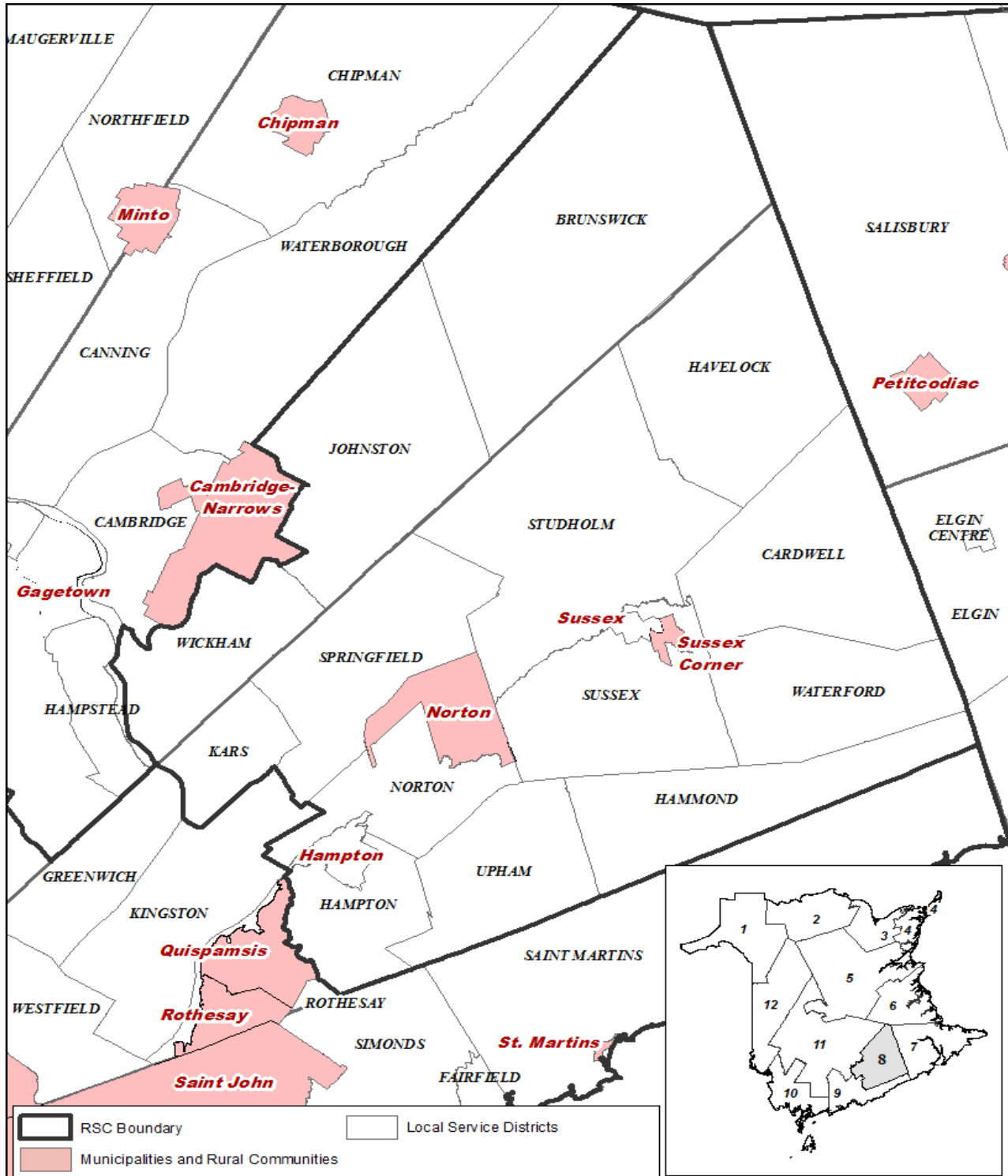
LSD of Wickham

Village of Norton

Village of Sussex 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 of each year.

1.2 The first meeting of the Planning Review and Adjustment Committee shall be chaired by the Planning Director (or designate) 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 floor 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 one year 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.

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 are to be held, when necessary, on the third Tuesday of the month at the RSC8 office or, if required, a location selected by the Chairperson. Storm dates will be called by the Chairperson or the Planning Director.

3.2 Planning Review and Adjustment Committee members and RSC planning staff may participate in a meeting by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other.

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3.3 If the Planning Director (or designate) 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), does not bring forward applications for consideration, the meeting may be cancelled by the Chairperson.

3.4 All regular meetings of the Planning Review and Adjustment Committee will begin at 10 a.m.

3.5 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 or the Planning Director.

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

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

3.8 All regular and special meetings of the Planning Review and Adjustment Committee shall be open to the public, except in circumstances where legal advice or instructions are being provided.

3.9 The Planning Review and Adjustment Committee may consider, on the formal request of a development proponent, closing all or part of deliberations on a specific matter to the public, when, in the opinion of the Committee, it could compromise or expose private business or proprietary information.

3.10 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.

3.11 Unless or otherwise specified, Robert's Rules of Order by Henry Martyn Robert (*or whatever the RSC refers to in its Procedural By-law*) shall govern the proceedings of meetings of the Planning Review and Adjustment Committee.

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4. Agenda Establishment and Decision-Making:

4.1 RSC planning staff shall prepare the agenda for the Planning Review and Adjustment Committee. Only applications deemed to be complete by the Planning Director (or designate) and received by the last business day of the month will be considered for inclusion on the next regular meeting agenda of the Planning Advisory Committee. *(i.e., Applications/items to be considered by the Planning Review and Adjustment Committee must be complete and received by the last business day of the month in order to be considered for inclusion on the agenda of the next regular meeting of the Planning Review and Adjustment Committee).*

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 three days 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.

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 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 although a group spokesperson is also considered appropriate.
- 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 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 With the exception of the approval of the agenda and the minutes of the meetings, decisions on all items on the agenda of the Planning Review and Adjustment Committee shall be made by motion in open session and shall include reasons for the decisions.

4.10 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.

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

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 in writing to the applicant and anyone who made a written submission within three working days of the meeting of the Planning Review and Adjustment Committee.

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

4.15 Approved minutes of the Planning Review and Adjustment Committee meetings are to be signed by the Chairperson and the Secretary.

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4.16 The working language of the Planning Review and Adjustment Committee will be English; however every effort will be made to accommodate the public wishing to speak in French when receiving services from the Service Commission (staff and the Commission itself). A person or group of persons wishing to address the Planning Review and Adjustment Committee must state seven working days in advance of the scheduled meeting if which they wish to be served in French so that appropriate translation services can be provided.

5 Applications to the Planning Review and Adjustment Committee:

5.1 The Planning Review and Adjustment Committee will only consider applications that are fully completed to the satisfaction of the Development Officer.

5.2 The applications within the jurisdiction of the Planning Review and Adjustment Committee received by the RSC's Planning staff 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 and time the application will be heard and a copy of the staff report will be provided to the applicant at the same time as the agenda is circulated to the Planning Review and Adjustment Committee.

5.4 An application which has been submitted to the RSC's Planning staff may be withdrawn in writing by completion of a form.

5.5 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 that there has been a change in conditions.

6 Notice Requirements for Affected Property Owners

6.1 Property owners within 60 metres of a property in an incorporated area which is the subject of an application (excluding subdivisions with public/private roads) 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. A wider range of notification may be considered if the application is considered to present conditions or ramifications which are broader than normal. Broader circulation is at the discretion of the Development Officer.

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6.2 Property owners within 100 metres of a property in an unincorporated area which is the subject of an application (excluding subdivisions with public/private roads) 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. A wider range of notification may be considered if the application is considered to present conditions or ramifications which are broader than normal. Broader circulation is at the discretion of the Development Officer.

6.3 The notice will indicate that their view can be made by letter 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 any unsigned letters.

6.4 The notice will be mailed or delivered at least seven days prior to the meeting date.

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

6.6 The notice will request that notice be given to the Planning Director if they plan to attend the Planning Review and Adjustment Committee meeting.

6.7 In instances where an application straddles the boundaries of two or more RSC boundaries Planning Review and Adjustment Committee notice will be provided to property owners in accordance with 6.1 and 6.2.

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 Board 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 3 business days of the meeting at which such decisions were made.

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.

8.2 Where a member misses three consecutive regular meetings of the Planning Review and Adjustment Committee, the Planning Director shall assess the situation and report to PRAC, and PRAC will determine the appropriate next steps.

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9 Amendments to the Planning Advisory Committee By-law:

9.1 The Service Commission shall review the Planning Review and Adjustment Committee By-law every five years and request the input of the Planning Review and Adjustment Committee and RSC Planning staff.

9.2 The Planning Review and Adjustment Committee and RSC Planning staff may make recommendations to the RSC Board for amendments to the Planning Review and Adjustment Committee By-law at any time.

9.3 The RSC Board shall determine, in consultation with RSC Planning staff and the Planning Review and Adjustment Committee members, the changes to be made to this by-law in accordance with the provisions of the RSC Procedural By-law

10 Expenses and Per diems:

10.1 Members will be reimbursed for travel expenses in accordance with the RSC's general policy or by-law on travel expenses for RSC committee members.

10.2 Members will be paid a per diem of 50 percent of the per diem set for the members of RSC8 Board for attendance at a regular, additional, special meeting, or educational session of the Planning Review and Adjustment Committee.

10.3 The Chairperson of the Planning Advisory Committee shall receive a per diem at the full rate received by the members of the RSC 8 for attendance at a regular, additional special meeting or educational session of the Planning Review and Adjustment Committee.

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*; the *Regional Service Delivery Act* or Regulations made thereunder), 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 Regional Planning Review and Adjustment Committee should have this included as a standard item).

11.3 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.