

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

Fundy Regional Service Commission
Planning Review and Adjustment Committee By-law

Amendment Approved: December 19th, 2022

Effective: January 1st, 2023

Chairperson:



Chief Executive Officer:



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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 Fundy Regional Service Commission. This Committee, to be established by the Fundy Regional Service Commission board 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 FRSC): Fundy Regional Service Commission established per Regulation 2022-46 under the *Regional Service Delivery Act*.

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

Community Planning Act: Revised Statutes of New Brunswick, 2017, C-19

Regional Service Delivery Act: Revised Statutes of New Brunswick, 2012, C-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 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 Regional Planning Review and Adjustment Committee to serve the region to be covered by Fundy Regional Service Commission. 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 8 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:

- Committee members must reside in a community that is receiving local planning services from Fundy Regional Service Commission.
- There shall be at least one member of who resides in the Fundy-St. Martins Village and at least one member who resides in the Fundy Rural District.
- One member of the Planning Review and Adjustment Committee shall be a Board member of the Regional Service Commission, or designate.
- 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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- Committee members should have some basic knowledge of the planning 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 skills (e.g., legal, planning, design, etc.)
- 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 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.

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 four (4) members being appointed for four- year terms and four (4) members being appointed for two-year terms.

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

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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
 Fundy Regional Service Commission**

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 and review 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*. 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 or rural community council on any matter 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 (1)(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)(ii)
<ul style="list-style-type: none"> ▪ Impose terms & conditions for a particular purpose if permitted by the zoning by-law 	53(4)
<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)
<ul style="list-style-type: none"> ▪ Permit such reasonable variance from the requirements of the zoning by-law 	55(1)(b)

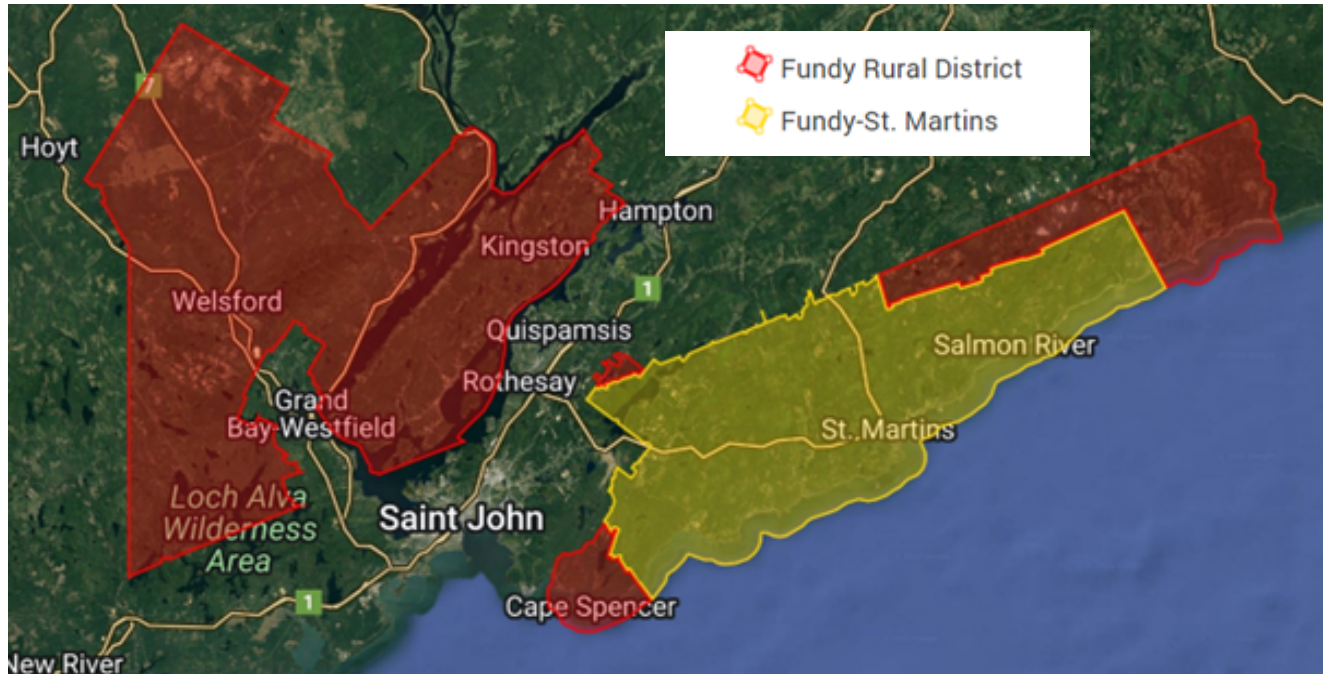
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Responsibility	Reference to CPA
▪ Permit a non-conforming use to continue beyond the ten month period	60(2)(a)
▪ Permit a structure to be repaired or restored if it has non-conforming rights and destroyed more than 50%	60(2)(b)
▪ Provide consent for 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(k)(i)
▪ Provide their opinion as to whether a proposed manner of subdividing prejudices the convenient subdivision of adjoining land	75(k)(ii)
▪ Approval of the naming of streets if given authority in the subdivision by-law	75(l)
▪ Permit such reasonable variance from the requirements of the subdivision by-law	78(l)(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(l)

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

- Fundy Rural District
- Fundy-St. Martins Village



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) 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 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 are to be held, when necessary, on the third Monday of the month, except:

- a. When the day falls on a holiday, then the meeting shall be held on the next day.
- b. Other exceptions (e.g., around the Christmas / New Year holiday period) will be determined at the meeting a month prior to the holiday.

3.2 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, a second meeting date will be designated 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 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 shall be held at a location within the Fundy Regional Service Commission boundaries or by teleconference.

3.4 Special meetings may be called by the Chairperson. It shall be the duty of the Chairman 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 email or mail to the members. Such notice may also 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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Individuals who request a special meeting will be required to cover any and all costs associated with said meeting.

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 Robert's Rules of Order shall govern the proceedings of meetings of the Planning Review and Adjustment Committee.

4. Agenda Establishment and Decision-Making

4.1 Fundy Regional Service Commission 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 be four weeks prior to the scheduled meeting. *(i.e., Applications, items, and other necessary documents or approvals required for complete report consideration by the Planning Review and Adjustment Committee must be received by fourth week before the regular meeting in order to be heard at 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 on the Wednesday prior to the meeting. Members shall also be provided with the

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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.

The agenda will be posted on the FRSC website once it has been sent to the PRAC. Staff reports will be available to the public at the Commission office. These reports will also be posted on the Commission website.

4.3 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.

4.4 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

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Committee although a group spokesperson is also considered appropriate.

- vi) The Chairperson will then invite anyone else present to speak whom has not yet spoken.
- vii) The Chairperson will provide the applicant with an opportunity to respond to the issues raised by those speaking against the application.

4.6 The chairperson may set a time limit when inviting those present to speak regarding an application.

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 employee of the Commission 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

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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 four (4) working days (time frame to send applicant the decision / advice) of the meeting of the Planning Review and Adjustment Committee.

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

4.14 Draft minutes are to be reviewed 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 and the Recording Secretary.

5. Applications to Planning Review and Adjustment Committee

5.1 The Planning Review and Adjustment Committee will only consider applications that are completed 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 by Wednesday prior to the meeting.

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

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5.5 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.

5.6 An application which has been referred to the Planning Review and Adjustment Committee by a Council can only be withdrawn with the consent of that Council. Such a request shall be conveyed in writing to the Planning Director or designate.

5.7 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 60 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. A wider range of notification may be considered 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. A wider range of notification may be considered 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

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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 any unsigned letters. Electronic correspondence with the originators title block will be deemed acceptable as a signed letter.

6.4 The notice will be mailed or delivered at least two (2) weeks prior to the meeting date.

6.5 The notice will indicate that a staff report is 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 ten (10) business days of the meeting at which such decisions were made. Notice of such decisions shall be signed by the Chairperson or the Development Officer.

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 Committee Chairperson.

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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.

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 the Planning Review and Adjustment Committee.

9. Amendments to the Regional Planning Review and Adjustment Committee By-law

9.1 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.

9.2 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.

10. Expenses and Per diems

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

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10.2 Members will be paid a per diem of One Hundred Dollars (\$100.00) for attendance at a regular, additional or special meeting of the Planning Review and Adjustment Committee.

10.3 The Chairperson of the Planning Review and Adjustment Committee shall receive a per diem of One Hundred Dollars (\$100.00) for attendance at a regular, additional or special meeting 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* and Regulations made thereunder), he or she shall not participate in the discussion or decisions relating to the matter at hand.

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 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.