

Kent Planning Review and Adjustment Committee By-Law-
Kent Regional Service Commission

Regional Service Commission Planning Advisory Committee By-law
Kent Regional Service Commission

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1. General Purpose:

The purpose of this by-law is to set out the structure and operating procedures for the Kent Regional Service Commission Planning Review and Adjustment Committee of Kent Regional Service Commission. This Committee, to be established by the Kent Regional Service Commission and 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:

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

KRSC Board: The Board of Directors of the Kent Regional Service Commission.

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

Regional Service Delivery Act: Statutes of New Brunswick, 2017, Chapter C-18.

Application: Refers to an application submitted for the views and / or decision of the Kent Regional Service Commission 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 Kent Regional Service Commission's Kent Regional Service Commission Planning Review and Adjustment Committee.

Other Definitions: Add as necessary

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3. Establishment:

The KRSC Board shall be responsible for the establishment of the Kent Regional Service Commission Planning Review and Adjustment Committee and for appointing the members of this Committee.

4. Number of Members of the Kent Regional Service Commission Planning Review and Adjustment Committee:

There shall be one (1) Kent Regional Planning Review and Adjustment Committee to serve the region to be covered by the Kent Regional Service Commission. Appendix B contains a map designating the areas to be covered by the Kent Regional Service Commission Planning Review and Adjustment Committee as well as a listing of the communities covered by the Kent Regional Service Commission Planning Review and Adjustment Committee.

5. Composition and Appointments:

5.1 The Kent Regional Service Commission Planning Review and Adjustment Committee shall consist of six (6) members.

5.2 The Board of the Kent Regional Service Commission shall appoint individuals to the Kent Regional Service Commission 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 Kent Regional Service Commission.
- There shall be at least one member of the Kent Regional Service Commission Planning Review and Adjustment Committee who resides in a municipality and at least one member who resides in a Local Service District.
- No more than two (2) of the Kent Regional Service Commission Planning Review and Adjustment Committee membership shall be made up of municipal council

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members, local service district advisory committee members and Kent Regional Service Commission board members.

- Membership on the Kent Regional Service Commission 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 planning and local government functions as well as experience on volunteer-based committees. In addition, the KRSC, in establishing the Committee membership should seek a diversity of skills (e.g., legal, planning, design, etc.)
- Members named to the Kent Regional Service Commission Planning Review and Adjustment Committee must be eligible to vote in Provincial elections [43(1) of *Elections Act*].

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

5.4 The members appointed to the Kent Regional Service Commission 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 Kent Regional Service Commission 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.

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6. Terms of Office

6.1 The regular term of office for members of the Kent Regional Service Commission Planning Review and Adjustment Committee shall be four years.

6.2 The Kent Regional Service Commission Planning Review and Adjustment Committee members may resubmit their candidacy for additional four-year terms, following their initial appointments.

7. Operating Procedures

The Kent Regional Service Commission 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 Regional Service Commission Planning Review and Adjustment Committee of an KRSC

The Kent Regional Service Commission Planning Review and Adjustment Committee of an KRSC performs both a decision-making (quasi-judicial) and an advisory role on behalf of communities. The role of the Kent Regional Service Commission 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 Kent Regional Service Commission 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*.

Functions	Reference to CPA
<ul style="list-style-type: none"> ▪ Make recommendations to Council on the laying out of public or future streets 	77 (1)
<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)
<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)
Responsibility	Reference to CPA

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▪ 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)b)c)
▪ May give notice to owners of land in the neighborhood of the proposed subdivision in which a variance has been requested	78(3)a)b)c)
▪ Refuse to grant an exemption from subdivision by-law	80(2)a)b)
▪ 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)a)b)
▪ Provide its views on any proposed by-law if not previously given	110(1)a)b)

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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 Kent Regional Service Commission Planning Review and Adjustment Committee at its first meeting.

1.2 All meetings shall be chaired by the Chairperson or Vice-Chairperson of the Kent Regional Service Commission 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 Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee shall be held monthly on the fourth Tuesday of every month, except:

- a. When the day falls on a holiday, then the meeting shall be held on the third Wednesday of every month;
- b. Other exceptions (around the Christmas / New Year holiday, etc.)

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 Kent Regional Service Commission Planning Review and Adjustment Committee's business in a timely manner, such a meeting shall be held on the following Wednesday or 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 Kent Regional Service Commission Planning Review and Adjustment Committee will begin at 6:30pm, and will be held at the office of the KRSC in Richibucto.

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 Kent Regional Service Commission Planning Review and Adjustment Committee.

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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 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 Kent Regional Service Commission 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 Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee begins.

3.9 Unless or otherwise specified, the Robert Rule of Order shall govern the proceedings of meetings of the Kent Regional Service Commission Planning Review and Adjustment Committee.

4. Agenda Establishment and Decision-Making

4.1 KRSC planning staff shall prepare the agenda for the Kent Regional Service Commission Planning Review and Adjustment Committee. The deadline for determining the items to be included on the regular meeting agenda of the Kent Regional Service Commission Planning Review and Adjustment Committee shall be the end of each month. *(i.e., Applications / items to be considered by the Kent Regional Service Commission Planning Review and Adjustment Committee must be received by month's end in order to be heard at the next regular meeting of the Kent Regional Service Commission Planning Review and Adjustment Committee).*

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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 Kent Regional Service Commission Planning Advisory Committee on the Friday prior to the meeting. Members shall also be provided with the necessary staff reports relating to each item on the agenda. The Kent Regional Service Commission 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 KRSC's website once it is sent to the Kent Regional Service Commission Planning Review and Adjustment Committee members and will also be available for the public at KRSC offices. Staff reports associated with each agenda item shall also be available to the public. (*during normal office hours*)
- 4.4 An item not on the agenda may be brought to the meeting by KRSC planning staff but must be added to the agenda by majority vote of the Kent Regional Service Commission 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 review by the Kent Regional Service Commission 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.

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- ii) KRSC 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 Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee and KRSC 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 Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee members present.

4.8 The Kent Regional Service Commission Planning Review and Adjustment Committee members may question any person addressing the Committee.

4.9 Decisions on all items on the agenda of the Kent Regional Service Commission 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.

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- 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 Kent Regional Service Commission Planning Review and Adjustment Committee.
- 4.12 The recording secretary shall keep notes on the Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee for its decision.
- 4.13 All decisions / advice shall be sent to the applicant in writing within five (5) working days of the meeting of the Kent Regional Service Commission Planning Review and Adjustment Committee.
- 4.14 The minutes are to be made available to the public after they are approved by the Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee meetings are to be signed by the Chairperson.

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5. Applications to the Kent Regional Service Commission Planning Review and Adjustment Committee

- 5.1 The Kent Regional Service Commission Planning Review and Adjustment Committee will only consider applications that are fully completed to the satisfaction of the Development Officer / Planning Director.
- 5.2 The applications within the jurisdiction of the Kent Regional Service Commission Planning Review and Adjustment Committee received by the KRSC'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 Kent Regional Service Commission Planning Review and Adjustment Committee meeting and the availability of a staff report two (2) weeks prior to the meeting.
- 5.4 An application which has been submitted to the KRSC's Planning Department may be withdrawn at any time prior to the agenda being finalized.
- 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 Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee within the last year, it will not be reconsidered by the Kent Regional Service Commission Planning Review and Adjustment Committee unless the Kent Regional Service Commission Planning

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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 correspondence or in person before the Kent Regional Service Commission Planning Review and Adjustment Committee at the meeting. All letters received will be public documents and they must be signed. The Kent Regional Service Commission Planning Review and Adjustment Committee will not accept any unsigned letters.
- 6.4 The notice will be mailed or delivered at least ten (10) business 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.

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7. Reporting Requirements

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

7.2 Municipal and rural community clerks shall be supplied with the decisions made by the Kent Regional Service Commission Planning Review and Adjustment Committee that affect their respective communities, within five (5) business days of the meeting at which such decisions were made. Notice of such decisions shall be signed by agent responsible for the case.

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

8. Member attendance

8.1 In the event that a member of the Kent Regional Service Commission Planning Review and Adjustment Committee is unable to attend a regular meeting of the Kent Regional Service Commission 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 Kent Regional Service Commission Planning Review and Adjustment Committee, the Chairperson shall advise the KRSC Board and the KRSC Board shall assess the situation and determine the appropriate steps to be taken with respect to this

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member's continued membership the Kent Regional Service Commission Planning Review and Adjustment Committee.

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

9.1 The Kent Regional Service Commission Planning Review and Adjustment Committee and KRSC Planning staff may make recommendations to the KRSC Board for amendments to the Kent Regional Service Commission Planning Review and Adjustment Committee By-law.

9.2 The KRSC Board shall determine, in consultation with KRSC Planning staff and the Kent Regional Service Commission 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 and indemnities in accordance with the KRSCs general policy or by-law on travel expenses for KRSC committee members.

11. Conflict of Interest

11.1 In the event that a member of the Kent Regional Service Commission 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.

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11.2 If at all possible, conflicts of interest shall be declared at the beginning of the Kent Regional Service Commission Planning Review and Adjustment Committee meetings.

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 Kent Regional Service Commission 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.