

# THE NUNAVUT PLANNING COMMISSION

## RULES OF PROCEDURE FOR PUBLIC HEARINGS AND PUBLIC REVIEWS

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## **INTRODUCTION AND PURPOSE**

The Nunavut Planning Commission makes these rules of procedure pursuant to section 11.4.16 of the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada. Section 11.4.16 of the Agreement reads in part:

The NPC may make by-laws and rules respecting:

...

(c) the procedures for making submissions, representations and complaints to the NPC;

(d) the procedures for collecting information and opinion, including the procedures for conducting formal and informal public hearings;

(e) generally the manner of conducting the business of or before the NPC; and

(f) the admissibility of evidence.

The rules are intended to ensure that the public hearing and public review processes and procedures meet the requirements of fairness and natural justice, and to provide the Commission, participants, and the public with a practical reference to those requirements. These rules are made for use by the Commission during public hearings and public reviews, including public hearings which may form a part of such public reviews, conducted by the Commission pursuant to its authority under Article 11 of the Agreement, or where required by an approved land use plan and with the written consent of both joint panel members, jointly by the Commission and either the Nunavut Impact Review Board or an environmental assessment panel. These include those hearings and public reviews commonly associated with: the formulation and implementation of land use plans and studies and applications for amendments of land use plans.

The Commission may amend or add to these rules at any time.

## **PART I. GENERAL**

### **SECTION 1. CITATION**

- 1.1 These rules may be cited as the NPC Rules of Procedure for Public Hearings and Reviews.

### **SECTION 2. DEFINITIONS**

- 2.1 Unless the context requires otherwise, words and phrases in these rules have the same meaning as in the Agreement.
- 2.2 In these rules:

- (a) “affidavit” refers to a document containing a voluntary declaration of facts sworn to or affirmed by the declarant before an officer authorized to administer oaths and affirmations;
- (b) “Agreement” means the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada, signed on behalf of the Inuit of Nunavut and the Crown on May 25, 1993, as amended;
- (c) “Amendment Application” means a proposed amendment to an approved land use plan submitted to the Commission by Government, a DIO, or any person affected by a plan, as well as any documentation and representations relevant to the proposed amendment submitted to the Commission by the Amendment Applicant;
- (d) “Amendment Applicant” means a person who submits an Amendment Application to the Commission;
- (e) “Commission” means the Nunavut Planning Commission established as an institute of public government pursuant to Article 10 and 11 of the Agreement, and for clarity, includes the Chairperson or acting Chairperson, Commissioners, and Commission staff delegated by the Commissioners to conduct the Commission’s business functions;
- (f) “Designated Inuit Organization” (DIO) means (a) the Tunngavik, or (b) in respect of a function under the Agreement, any of the Organizations that has been designated under Section 39.1.3 of the Agreement as responsible for that function;
- (g) “document” includes anything in printed form, and telecommunication or electronic transmission capable of being reduced to a printed format, and video or audio recordings;
- (h) “Elder” means a member of the community recognized as such in accordance with local culture, customs and traditions;
- (i) “evidence” is information that tends to prove a fact and may be received orally or in writing as determined by the Commission in accordance with these rules;
- (j) “formal hearing” means an oral hearing held in public for the primary purpose of allowing the parties to present technical evidence to the Commission;
- (k) “hearing” means a written hearing or an oral hearing, whether a formal hearing or informal hearing, or any combination of these as the Commission may elect in its sole discretion, as the context suggests;
- (l) “informal hearing” means an oral hearing involving an open forum community meeting held primarily to allow interested persons and Elders the opportunity to communicate their views about the project proposal in an informal environment;
- (m) “information request” means a written request for information or particulars made by the Commission, or from one participant to another;

- (n) “interested person” means any person who in the opinion of the Commission, has information, knowledge or a view useful for the resolution of a matter before the Commission;
- (o) “Inuktitut” means all forms of the Inuit language in current usage in Nunavut, including Inuinnaqtun;
- (p) “minor variance” means relief or reasonable deviation from certain Terms of a Land Use Designation while not permitting additional uses or changing a Land Use Designation.;
- (q) “motion” means a request by a participant for a ruling or order in a proceeding or in a pending proceeding;
- (r) “notice” means written notice:
  - (i) delivered to the person;
  - (ii) sent by facsimile or other reliable electronic means, the receipt of which is reliably confirmed;
  - (iii) mailed, receipt of which shall be deemed to have occurred on the 10th day after posting, unless the Commission is satisfied that the document was received on a later date;
 but in the case of notice to Inuit, aboriginal persons under Article 40 of the Agreement, other residents of Nunavut and the public, “notice” means announcement by newspaper, radio, community poster or other public means, according to reasonable terms established by the Commission;
- (s) “oral hearing” means a hearing at which the participants appear before the Commission either in person or through conference telephone, video, or some other electronic means for hearing one another, to make oral representations;
- (t) “participant” means a party, or an interested person who has been granted standing by the Commission pursuant to Rule 23.5;
- (u) “party” (collectively “parties”) means, in addition to any other person, group or organization entitled to standing at a Commission hearing pursuant to the Agreement:
  - (i) any Inuit, aboriginal person under Article 40 of the Agreement, or other resident of Nunavut of the planning region to which the step in the planning process or draft land use plan at issue relates, or who is potentially affected by the Amendment Application at issue, as the case may be;
  - (ii) Nunavut Tunngavik Incorporated or the Inuit Organization designated by Nunavut Tunngavik Incorporated;
  - (iii) the Regional Inuit Organization;
  - (iv) each municipality in the planning region to which a draft land use plan at issue relates, or that is potentially affected by the Amendment Application at issue, as the case may be;
  - (v) the Community Land and Resource Committee from each community in the planning region to which a draft land use plan at issue relates, or who is

potentially affected by the Amendment Application at issue, as the case may be;

- (vi) any Canadian or Nunavut government department or agency, Designated Inuit Organization (DIO), or any other body that has the authority to issue a permit, lease, license or grant approval to a proponent to conduct some physical work or physical activity in relation to a project proposal;
- (v) “person” includes a corporation, organization, department, agency, affected land owner, community, first nation, any Inuit Organization, any institution established under the Agreement, and any unincorporated association recognized as a person by the Commission;
- (w) “proceeding” means a matter before the Commission, including public hearings and public reviews, as the context requires;
- (x) “project proposal” means a physical work that a proponent proposes to construct, operate, modify, decommission, abandon or otherwise carry out, or a physical activity that a proponent proposes to undertake or otherwise carry out, such work or activity being within the Nunavut Settlement Area, except as provided in Section 12.11.1 of the Agreement.
- (y) “proponent” in respect of a project proposal, means the person, body or government authority that proposes the project.
- (z) “public hearing” means a hearing in which the Commission receives and considers the submissions, representation, information, opinion, and evidence from participants relating to the matters identified by the Commission in a public notice of the public hearing;
- (aa) “public review” means a review of an Amendment Application publicly, either by the Commission alone or jointly with another entity as may be required by an approved land use plan, including the collection and consideration of submissions, representation, information, opinion, and evidence whether conducted as a written hearing, an informal hearing, or a formal hearing, or any combination of these as the Commission may elect pursuant to these rules;
- (bb) “representation” include statements of fact or opinion, argument, information, and related documentation or other material;
- (cc) “written hearing” means a hearing held by means of an exchange of documents.

### SECTION 3. APPLICATION

- 3.1 These rules apply to all public hearings and public reviews by the Commission, whether in written hearings or oral hearings, or both as elected by the Commission pursuant to Rule 11.3.
- 3.2 These rules are not applicable to public reviews of an Amendment Application conducted jointly by the Commission with another reviewing entity, unless the Commission and the other reviewing entity agree in writing that they shall so apply, otherwise the Commission and other reviewing entity may jointly prepare the rules of procedure.

- 3.3 These rules are not applicable to conformity determinations of project proposals by the Commission, or public reviews of minor variances where a project proposal does not conform to an applicable land use plan as contemplated by the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2, not yet in force, and the Commission may enact specific rules for those procedures.

#### SECTION 4. INTERPRETATION AND VARIATION OF RULES

- 4.1 Consistent with the Agreement and the broad application of the principles of natural justice and procedural fairness, the Commission shall give these rules such fair, large and liberal construction as best ensures the just, expeditious and fair hearing of public reviews.
- 4.2 Where any procedural matter relating to proceedings is not provided for in these rules, the Commission may at any time give directions governing the procedure to supplement these rules that it considers necessary for the fair determination of an issue.
- 4.3 On its own initiative or at the written request of a participant the Commission may, with or without a hearing, issue any direction on procedure to dispense with or vary any part of these rules that it considers necessary for the fair determination of an issue.
- 4.4 Where there is a conflict between any rule and any direction on procedure issued by the Commission, the direction on procedure prevails over the rule.
- 4.5 Where there is a conflict between any rule or any direction on procedure issued by the Commission and the Agreement, the Agreement prevails over the rule or the direction on procedure.

#### SECTION 5. FORM

- 5.1 Unless the Commission directs another form, all procedural steps and motions to be dealt with in advance of a hearing shall be dealt with in writing.

#### SECTION 6. NON-COMPLIANCE WITH THE RULES

- 6.1 Where a participant has not complied with these rules or a direction on procedure or an order issued by the Commission, the Commission may:
- (a) adjourn the proceeding until satisfied that the requirement has been complied with; or
  - (b) take such other steps as it considers just and reasonable.
- 6.2 The Commission may, with or without a hearing, dispense with compliance to any rule at any time in order to secure a fair determination of any matter.
- 6.3 No proceeding is invalid by reason of a defect or other irregularity in form.
- 6.4 Failure of the Commission to give adequate notice in accordance with these Rules does not invalidate a proceeding where:
- (a) The persons entitled to notice consent;
  - (b) There is no actual prejudice to any person arising out of the failure; or
  - (c) Any prejudice can be offset by:



- (i) adjourning or extending the review period if that would not unduly delay the progress; or
  - (ii) through some other means that would be in the public interest while not unduly compromising the process.
- 6.5 The Commission may, in its discretion, amend a public notice of any proceeding by issuing an additional notice, which may include time extensions.

## SECTION 7. GOVERNING PRINCIPLES

- 7.1 In conducting all public hearings and public reviews, the Commission shall be principally guided by:
  - (a) The general principles set forth in section 11.2.1 of the Agreement; and
  - (b) The major responsibilities of the Commission in section 11.4.1 of the Agreement.
- 7.2 Where the Commission conducts public hearings in the planning process, including on developing and implementing planning policies, priorities and objectives and land use plans, in addition to the factors in section 7.1 of these rules, the Commission shall also take the following into account:
  - (a) The objectives of the planning process in section 11.2.2 of the Agreement;
  - (b) The factors to be taken into account in developing planning policies, priorities and objectives in section 11.2.3 of the Agreement;
- 7.3 Where the Commission conducts a public review of an Amendment Application, in addition to the factors in section 7.1 of these rules, the Commission shall also take the following into account:
  - (a) The factors listed in section 11.3.1 of the Agreement;
  - (b) The purpose of land use plans as established by section 11.3.2 of the Agreement;
  - (c) Any planning policies, priorities and objectives regarding the conservation, development, management and use of land applicable to the land to which the Amendment Application relates developed by the Commission under Article 11, Part 2 of the Agreement, as may be amended from time to time; and
  - (d) Any principles that guided the development of the applicable land use plan to which the Amendment Application relates that are contained in that land use plan, whether express or implied.

## SECTION 8. COMMUNICATION WITH THE COMMISSION

- 8.1 Communication related to all Commission proceedings will be accepted as received when addressed to either the Chair or the Executive Director of the Commission or to the person designated by the Executive Director, unless otherwise specified by the Commission.
- 8.2 Any correspondence, including the filing of materials in a proceeding, may be sent by facsimile to the Commission. If a document is sent by facsimile to the Commission an

original copy must also be subsequently forwarded to the Commission, unless the Commission directs otherwise for a particular proceeding.

- 8.3 Unless the Commission has directed otherwise, any matter to be dealt with during a proceeding shall be dealt with in writing.
- 8.4 Electronic mail will not be considered communication with the Commission for purposes of a proceeding unless specifically authorized by the Commission.

## **SECTION 9. MOTIONS**

- 9.1 If a matter arises in a proceeding, other than during an oral hearing, that requires a decision or order of the Commission, a participant may bring the matter before the Commission by filing a motion with the Commission and serving a copy of the motion on all other participants.
- 9.2 A motion pursuant to Rule 9.1 must:
- (a) Be in writing;
  - (b) Briefly describe the decision or order sought, the grounds on which the motion is made, and the nature of any evidence sought to be presented in support of the motion;
  - (c) Be accompanied by an affidavit setting out a clear and concise statement of the facts relevant to the motion;
  - (d) Be accompanied by any documents material to the motion; and
  - (e) In the opinion of the Commission, be filed in a timely manner giving consideration to when the matter arose in the proceeding.
- 9.3 A participant may respond to a motion served on the participant pursuant to Rule 9.1 by filing and serving, as directed by the Commission, a response.
- 9.4 The participant originating the motion may reply to a response to the motion by filing and serving, as directed by the Commission, a reply to the response.
- 9.5 If the Commission decides to hold an oral hearing of a motion brought under Rule 9.1, the Commission shall give notice of the hearing in accordance with Rule 10.4.
- 9.6 If a matter arises during an oral hearing that requires a decision or order of the Commission, a participant may bring the matter before the Commission by making a motion orally. The Commission shall dispose of an oral motion in accordance with such procedures as the Commission may order.

## **PART II. COMMENCEMENT OF PROCEEDINGS**

### **SECTION 10. COMMENCEMENT OF PUBLIC HEARINGS**

- 10.1 Where the Commission holds a public hearing in the planning process including during the formulation or implementation of land use plans, it shall give a notice to the parties and the public in accordance with these Rules.

- 10.2 In conducting a public hearing, the Commission may in its sole discretion elect to hold any number and combination of formal hearings and informal hearings as the Commission considers appropriate pursuant to Section 37 of these Rules.
- 10.3 In addition to oral hearings under Rule 10.2, the Commission may, in its sole discretion, hold a written hearing and accept written representations, information and evidence in accordance with the Rules for written hearings.
- 10.4 A notice of public hearing, including motions and other matters for which the Commission elects to hold a hearing, shall set out the procedures for the hearing, including:
- (a) a general description of the public hearing including its subject matter, intent, and the purpose and legal basis of the proceeding;
  - (b) the issues to be addressed in the proceeding and the potential consequences of the Commission's decision;
  - (c) how interested persons who may be affected may acquire more information including inspecting relevant documents filed with the Commission, and these Rules;
  - (d) the procedures and timelines for interested persons to apply for standing to submit representations to the Commission;
  - (e) the procedure and format for filing representations with the Commission, including the scheduled dates, times, locations, and types of oral hearings, whether formal hearing or informal hearings, at which submissions may be made under Section 32, if any;
  - (f) in the case of an oral hearing, the date, time and place of the hearing;
  - (g) contact information for the Commission.
  - (h) Contain a schedule showing the time limits for filing and serving any of the following:
    - (i) Requests for standing;
    - (ii) Written submissions by all participants;
    - (iii) Responses to written submissions;
    - (iv) If a public review of an Amendment Application, reply to responses to written submissions by Applicant;
    - (v) Filing of documentary evidence;
    - (vi) Written arguments; and
    - (vii) Any other procedural step the Commission considers necessary.
  - (i) Contain the requirements for the content and form of written submissions and the form of written argument;
  - (j) Indicate the address of the location or locations where the documents filed with the Commission in relation to the proceedings may be publicly viewed or otherwise obtained; and
  - (k) Contain any other information the Commission considers necessary.

## SECTION 11. COMMENCEMENT OF PUBLIC REVIEWS

- 11.1 Where an Applicant files an Amendment Application with the Commission pursuant to section 11.6.1 of the Agreement:
- (a) the Commission shall place the Amendment Application and any related documents in its public record; and
  - (b) the Commission shall consider the Amendment Application, including whether a public review of the Amendment Application is appropriate or required by an applicable land use plan; and
- 11.2 The public review period begins on the date the Commission elects in its sole discretion to hold a public review to consider an Amendment Application and ends on a date specified by the Commission in the notice of proceeding.
- 11.3 Recognizing the tradition of Inuit oral communication and decision making, the Commission may in its discretion elect to receive the submission of representations, information and evidence in a public review either in a written hearing, in an oral hearing, or both as the Commission considers appropriate pursuant to Section 37 of these Rules.
- 11.4 The Commission may in its discretion reconsider its election under Rule 11.3 at any time, and provide an amended notice pursuant to Rule 6.5.
- 11.5 A notice of public review shall set out the procedures for the public review, including:
- (a) a general description of the public review including its intent, and the purpose and legal basis of the proceeding;
  - (b) the issues to be addressed in the proceeding and the potential consequences of the Commission's decision;
  - (c) how interested persons who may be affected may acquire more information including inspecting relevant documents filed with the Commission, and these Rules;
  - (d) the procedures and timelines for interested persons to apply for standing to submit representations to the Commission;
  - (e) the procedure and format for filing representations with the Commission, including the scheduled dates, times, locations, and types of hearings, whether written, formal hearing or informal hearings, at which submissions may be made under Section 32 of these rules, if any;
  - (f) in the case of an oral hearing, the date, time and place of the hearing;
  - (g) contact information for the Commission.
  - (h) Contain a schedule showing the time limits for filing and serving any of the following:
    - (i) Requests for standing;
    - (ii) Written submissions by all participants;
    - (iii) Responses to written submissions;
    - (iv) If a public review of an Amendment Application, reply to responses to written submissions by Applicant;
    - (v) Filing of documentary evidence;
    - (vi) Written arguments; and

- (vii) Any other procedural step the Commission considers necessary.
  - (i) Contain the requirements for the content and form of written submissions and the form of written argument;
  - (j) Indicate the address of the location or locations where the documents filed with the Commission in relation to the proceedings may be publicly viewed or otherwise obtained; and
  - (k) Contain any other information the Commission considers necessary.
- 11.6 An Amendment Application must include the following information:
  - (a) The land use plan to which the Amendment Application relates;
  - (b) The identity of the Applicant, and where the Applicant is a person, a description of how the person is affected by the land use plan;
  - (c) A list of all proposed amendments, and their purpose, including the applicable sections of the land use plan, the current uses of the land, the proposed changes, and a description of how these meet the principles contained in Rules 7.1 and 7.3 above; and
  - (d) Any information required by the applicable land use plan.
- 11.7 In determining whether the Amendment Application is complete in that it contains the required information under these rules, the Commission may consult with parties, participants, and the public through the public review process. The Commission may be required to undertake such consultations prior to determining that an Amendment Application is complete if required to do so by the applicable land use plan.

## SECTION 12. NOTICE OF PROCEEDINGS

- 12.1 For both public hearings and public reviews, the Commission shall give notice of a hearing to all participants at least:
  - (a) 30 days before a community meeting, hearing of a motion, or other pre-hearing matter
  - (b) 30 days before an oral hearing of proceeding if the Commission elects to receive oral representations, whether in a formal hearing or informal hearing;
  - (c) 30 days before a written hearing; and
  - (d) 30 days a pre-hearing conference.
- 12.2 In communicating with the participants and public regarding the location and schedule of a hearing, the Commission shall attempt to reach as many people potentially interested or affected by the proceeding as possible in Inuktitut and any other languages deemed necessary by the Commission. The Commission may use various methods to distribute information to potentially affected persons and organizations, having regard for the nature of the proceeding.

## SECTION 13. FILING OF DOCUMENTS

- 13.1 Subject to subsection 13.1(a) of these rules, a document may be filed at the Commission office by personal delivery, ordinary mail, electronic transmission, or by any other means as directed by the Commission.

- (a) An Impact Statement prepared according to the guidance issued by the Nunavut Impact Review Board pursuant to section 12.5.2 of the Agreement including related addendums and supplements relating to an Amendment Application, may not be filed by electronic transmission.
- 13.2 A document filed with the Commission is deemed to have been filed when it is received by the Commission, unless it is received after the Commission's regular business hours, in which case the document is deemed to have been filed on the next business day of the Commission.
- 13.3 A participant who wishes to file a document after the time limit set out by the Commission may request of the Commission leave to file the document after the time limit. The Commission may grant such leave on any terms the Commission considers appropriate.
- 13.4 The Commission may require a set number of printed copies of a document be delivered to the Commission office by the filing date.
- 13.5 The Commission may request that all or any part of a document filed be verified by affidavit, and may in its sole discretion give less weight to any document not verified by an affidavit.
- 13.6 The Commission may direct that an executive summary of a document filed with the Commission be translated into Inuktitut or any other language deemed necessary by the Commission by the participant filing the document within a time period set out by the Commission. This Rule does not apply to documents filed by a person not acting on behalf of an organization.

#### SECTION 14. SERVICE OF DOCUMENTS ON PARTICIPANTS

- 14.1 A document required to be served under these Rules or by the Commission may be served by personal delivery, courier service, or ordinary mail to the address given by the participant, or by any other means as directed by the Commission.
- 14.2 In addition to the means of service in Rule 14.1 a document may be served by electronic means if the participant being served has the information technology, equipment, software and processes for receiving or retrieving the document.
- 14.3 The date of service of a document is the day on which the person being served receives the document unless it is received after 5:00 o'clock in the afternoon local time at the location being served, in which case the date of service is deemed to be the next business day.
- 14.4 Any document required to be served on a participant may be served on the participant's representative.
- 14.5 A participant intending to rely on a document or evidence in a proceeding shall file the document with the Commission within the time specified by the Commission and circulate the document to the other participants.
- 14.6 Failure to disclose a document in accordance with these rules may result in the Commission ruling that it is inadmissible in the proceeding.

- 14.7 The Commission may ask a participant to provide proof to the Commission that documents were served on the other participants to a proceeding and the means taken to affect service, and where appropriate may draw a negative inference against the participant if such proof is not provided.

## SECTION 15. PUBLIC RECORD

- 15.1 The Commission shall maintain a public record for proceedings including:
- (a) All documents filed in a proceeding including without limitation documents filed with the commission, written representations, evidence, and any recordings or transcripts of hearings;
  - (b) All notices by the Commission;
  - (c) Any determinations made by the Commission during the proceeding including grants of standing for interested persons.
- 15.2 The Commission may place in the record a document or thing introduced by the Commission or any participant.
- 15.3 The Commission may place in the record an electronic or other form of copy of a document or other thing if the Commission has no reason to doubt the accuracy of the copy.
- 15.4 If a participant wishes to keep confidential any information in a document, a participant may, before filing the document, file a motion with the Commission requesting information in a document be kept confidential. In addition to the requirements of Rule 9.2, a motion for a request for confidentiality must:
- (a) Contain a statement describing the nature of information in the document;
  - (b) Briefly describe the reasons for the request, including the specific harm that would result if the document were placed on the public record; and
  - (c) Indicate whether all or only part of the document is the subject of the request.
  - (d) If the Commission determines that the harm that would result if the document were placed on the public record outweighs the public interest in the disclosure of the document, the Commission may, after the hearing of the motion, grant a request for confidentiality on any terms that it considers appropriate.
- 15.5 Where a request for confidentiality is granted by the Commission and the document is filed with the Commission, the document or part of the document to which confidentiality is granted shall not be placed on the public record. A participant shall only receive a copy of the document or part of the document as the case may be if the participant files an undertaking stating that the participant will hold the document in confidence and use it only for the purpose of the proceeding with the Commission.
- 15.6 Nothing in Rules 15.1 to 15.3 limits the operation of any statutory provision that protects the confidentiality of information or documents.
- 15.7 The record of the proceedings shall be open to inspection at the Commission's head office by a participant or any member of the public at any reasonable time, other than when the record is being used by the Commission in the course of the Commission's business.

- 15.8 When requested by a person who is unable to secure copies, the Commission shall, upon payment of the Commission's reasonable fees and in reasonable time, provide the person with copies of any thing on the record of hearing.
- 15.9 As soon as is reasonably possible following a proceeding, and upon payment of the Commission's reasonable costs of reproduction, the Commission shall make or cause to be made either a copy of the recording of a hearing or a written transcript, available to any participant requesting it.
- 15.10 Tape recording of a hearing shall be retained by the Commission until the expiry of the period specified for the retention of personal information under the Privacy Act.
- 15.11 A record of proceedings maintained by the Commission in accordance with these rules shall be deemed correct as to the veracity of its details unless a person challenging it can prove that it contains omissions, is inaccurate in some way or has been tampered with.
- 15.12 Any gap in the proceedings record caused by a mechanical or technical dysfunction or error, weather, or other force majeure shall not invalidate the proceedings or record of the proceedings.

## SECTION 16. CONTENTS OF FILED DOCUMENTS

- 16.1 A filed document containing a technical report or material of a technical nature must indicate the technical qualifications of the person signing or taking responsibility for the report or material. If the filed document is a compilation of contributions from technical experts, a list of the experts, their qualifications and the nature of their contribution to the technical report or material must be submitted.
- 16.2 Where there is a material change to a filed document or significant new information relating to a filed document becomes available before a determination is made in a proceeding, and the information is necessary for determining an issue in the proceeding, the participant filing the document shall file a revised document with the Commission clearly indicating the part of the document that is revised, the date of the revision, and the reason for the revision.
- 16.3 The Commission may direct any participant to file such further information as the Commission considers necessary to permit a full and satisfactory understanding of an issue in a proceeding.
- 16.4 Subject to Rule 11.7, if the Commission requires that documents filed with the Commission contain the information necessary to conduct a hearing on the proceedings, the Commission, on its own initiative or in consultation with the participants, may request additional information to be filed by any participant possessing the necessary information before proceeding with a hearing.
- 16.5 For scheduling purposes, a participant in receipt of such an information request pursuant to Rule 16.4 shall inform the Commission in writing of the schedule for filing the additional information required.
- 16.6 If a participant does not comply with an information request made by the Commission pursuant to Rule 16.4 within a reasonable amount of time, or refuses to comply with



the request, the Commission may take any actions it considers appropriate in the circumstances, including adjourning the proceeding, drawing a negative inference against the participant in considering its evidence and representations, or if the Commission considers it appropriate, revoking the standing of the participant.

#### **SECTION 17. AFFIDAVITS**

- 17.1 An affidavit intended for use in a proceeding must be confined to those facts within the knowledge of the person making the affidavit or based on the information and belief of the person making the affidavit.
- 17.2 If a statement is made in an affidavit on information and belief, the source of the information and the grounds on which the belief is based must be set out in the affidavit.
- 17.3 If an affidavit refers to an exhibit, the exhibit must be marked as such by the person making the affidavit and attached to the affidavit.
- 17.4 The Commission may disregard or may afford little evidentiary weight to a sworn written statement or an audio or video recording, including an affidavit, unless the person whose testimony is presented is available for examination by the Commission and cross-examination by or on behalf of a participant at a hearing.

#### **SECTION 18. DECISIONS REQUESTED FROM THE COMMISSION**

- 18.1 The Commission may make any decisions required during a proceeding and shall establish any procedures necessary for the fair and timely resolution of the issue, including requiring motions and responses from participants.

#### **SECTION 19. TECHNICAL INFORMATION REQUESTS**

- 19.1 After receipt of additional information pursuant to Rule 16.4, if a participant is not satisfied that it has the technical information necessary to proceed to a hearing, the participant may submit to the Commission in writing a request for another participant to provide additional information.
- 19.2 If the Commission determines that the information request pursuant to Rule 19.1 is relevant and material to the review process, the Commission shall advise the participant in writing of the additional information required.
- 19.3 The Commission may establish a schedule for the filing of information requests pursuant to Rule 19.1 and the filing of the participant's response to the information requested pursuant to Rule 16.4.

#### **SECTION 20. MEETING OF TECHNICAL EXPERTS**

- 20.1 In order for the Commission to be satisfied that documents filed with the Commission relating to a proceeding contains the information necessary to proceed to a hearing, the Commission may hold a meeting of the participants technical experts, either in writing, by teleconference, or in person. A meeting of technical experts is not a hearing.

- 20.2 The Commission shall give notice of a meeting of technical experts to the participants at least 15 days before a meeting of technical experts.

## SECTION 21. PUBLIC CONSULTATION

- 21.1 The Commission may direct a member of the Commission staff or an expert hired by the Commission to hold community meetings or such other procedures as it deems appropriate, having regard to the nature of the proceedings, to inform the public about the Commission process. Notice of a community meeting or other procedures shall be given in accordance with Rules 10.4 and 12.1, and a record of such community meetings or other procedures shall be filed with the Commission in its public record of the proceedings.

## PART III. PUBLIC HEARINGS AND PUBLIC REVIEWS

### SECTION 22. PRE-HEARING CONFERENCE

- 22.1 In order to facilitate the hearing process, the Commission may in its sole discretion hold a pre-hearing conference with the parties and interested persons seeking standing either before or after the date of a hearing is set. The pre-hearing conference may be held in writing or orally, by teleconference or in person, and deal with any of the following matters:
- (a) Prepare a clear statement of issues in question;
  - (b) Confirm the participation of participants in the hearing;
  - (c) Identify and grant participant standing to interested persons;
  - (d) Determine the positions of the participants;
  - (e) Determine the witness list;
  - (f) Determine whether the participants may benefit from a mediation meeting to discuss the issues;
  - (g) Set a timetable for the exchange of documents and information requests prior to the hearing;
  - (h) Finalize procedures to be followed in the hearing; and
  - (i) Decide any other matters that may aid in the simplification of the hearing.
- 22.2 Without limiting the matters that may be addressed in a pre-hearing conference under Rule 22.1, the Commission may also organize a pre-hearing conference for one or more of the following reasons:
- (a) For the purpose of providing information to and facilitating active participation in the hearing by Inuit, other residents of Nunavut, owners and managers of Inuit Owned Lands, Government, and interested persons and the public; and
  - (b) In order to identify and facilitate the incorporation into a hearing of Inuit traditions of communication and decision-making.
- 22.3 Where a participant or a person including a member of the public who has been given notice of a pre-hearing conference does not appear at the hearing, the hearing may proceed in the person's absence.

## SECTION 23. PUBLIC PARTICIPATION AND REQUEST FOR PARTICIPANT STANDING

- 23.1 The Commission shall, without request, allow full standing to the parties.
- 23.2 An interested person wanting to make representations to or file evidence with the Commission in a proceeding, and not already registered as a participant in the proceeding, must file an application for participant standing in the manner set out in Rule 23.3 below and be granted standing by the Commission prior to making representations or submitting evidence.
- 23.3 An application for participant standing must be filed in writing with the Commission within the time period set out in the notice of public hearing or notice of public review. The request for participant standing must contain the following:
- (a) A brief summary of the reasons for the person's interest in the proceeding;
  - (b) A concise statement indicating the nature and scope of the interested person's intended participation, including whether the interested person intends to make a written submission and/or appear at an oral hearing, whether the interested person will be represented by counsel or an agent, and the language in which the person wishes to be heard; and
  - (c) The name, address, telephone number and, if available, fax number and e-mail address of the interested person and, if applicable, of the authorized representative.
- 23.4 The Commission shall on receiving and examining an application for participant standing, do one or more of the following:
- (a) Direct the interested person making the application to serve a copy of the request on the participants and such other persons as the Commission specifies, and solicit the views of the participants on the request;
  - (b) Direct the interested person making the application to provide more information to the Commission or otherwise revise the request in any manner the Commission considers necessary;
  - (c) Decide that the application will not be heard because the submission is frivolous, vexatious or of little merit; and
  - (d) Decide that the application will be heard and notify the parties that the application will be heard.
- 23.5 Subject to subsection 23.6 of these rules, upon hearing the application by an interested person, the Commission may grant participant standing to an interested person if the Commission is satisfied that:
- (a) the interested person has a substantial and direct interest in the subject matter of the application;
  - (b) the participation of the interested person, including whether any representations or evidence provided by that person are necessary, would further the public review; and
  - (c) the participation of the interested person would contribute to the openness and fairness of the public review.

- 23.6 If the Commission grants standing to an interested person under subsection 23.5 of these rules, the Commission may determine any of the following:
- (a) the manner and extent of a participant's participation;
  - (b) the rights and responsibilities of a participant; and
  - (c) any limits or conditions on a participant's participation.
- 23.7 Where interested persons have shared interests in the subject matter of the public review, they should make a single joint application for standing identifying those persons whose interests are reflected in the application, and the Commission may direct that a number of interested persons share in a single grant of standing either on receipt of such a joint application or on its own initiative.
- 23.8 For certainty, the Commission is not required to grant participant standing to any interested person and is not required to consider the representations or evidence of any person who is not a participant, but may do so in its sole discretion.
- 23.9 Subject to the rules of procedural fairness including hearing the views of other participants, the Commission may grant an interested person standing at a hearing and establish terms in accordance with subsection 23.6 of these rules.
- 23.10 An application for a grant of standing does not extend the deadline for making representations.
- 23.11 Any person who is not a participant and does not wish to become a participant, or whose application for participant standing has been declined, who wishes to make their views known to the Commission may:
- (a) Where the Commission is conducting a written hearing, submit a letter that:
    - (i) comments on the proceeding;
    - (ii) describes the nature of the person's interest; and
    - (iii) provides any relevant information that the person considers will explain or support the person's comments;or
  - (b) where the Commission is conducting an oral hearing, make an oral presentation during that portion of the hearing that has been set aside to hear the views of the public, subject to a direction by the Commission that due to time constraints the presentation be given to the Commission in a letter under (a) of this subsection or otherwise as the Commission directs.
- 23.12 In special circumstances where an Elder or other resident of Nunavut cannot provide a written submission either as a participant, or under Rule 23.11, the Commission may take any steps it considers desirable to permit that person to file a submission orally provided that it is filed on or before the date set by the Commission. A Commission staff member shall make a record of the conversation and transcribe a written submission from the person, and to ensure accuracy, the written statement shall be read back to the person prior to being filed with the Commission.
- 23.13 The Commission shall provide all parties, as opposed to all participants, with a copy of any comments filed pursuant to rules 23.11 and 23.12. In the case of a public review of an Amendment Application, an Applicant may, within 15 days after receipt of the

comments, serve a reply on the person who has filed the comments and file with the Commission and serve on all other parties a copy of the reply, unless extended by the Commission.

#### **SECTION 24. MEDIATION MEETING**

- 24.1 In order to facilitate the hearing process, the Commission may schedule a mediation meeting with the parties to simplify and clarify issues, and to resolve conflicts where possible. The Commission shall set the terms of reference for the mediation in advance and assign a Commission member, staff, or third-party mediator to assist parties. In order to resolve procedural issues and to agree on procedural requirements for the public hearing, parties may make representations to this end. A Commission member assigned to a mediation may participate in any further hearing of the matter, subject to the rules of procedural fairness.

#### **SECTION 25. FORMULATION OF ISSUES**

- 25.1 Subject to Section 11.4.1 of the Agreement and Section 7 of these rules, the Commission shall decide the issues to be considered in a hearing.
- 25.1 In deciding the issues to be considered in a hearing, the Commission may request information from any participant.

#### **SECTION 26. WRITTEN QUESTIONS ON HEARING ISSUES**

- 26.1 The Commission may direct written questions to a participant on any issue to be considered at a hearing and shall provide a copy of the questions to other participants.
- 26.2 Subsequent to receipt of the Commission's written questions, any participant may direct a written question to another participant on any issue relevant to the hearing and shall provide a copy of the question to the Commission and other participants.
- 26.3 The Commission may disallow any written question that in its opinion is frivolous or vexatious.
- 26.4 The Commission may establish a schedule for the filing of written questions pursuant to Rules 26.1 and 26.2 and the filing of the Amendment Applicant's response to the information required pursuant to Rules 26.1 and 26.2.

#### **SECTION 27. SUBMISSIONS OF COMMISSION EXPERTS**

- 27.1 If, in the opinion of the Commission, it is necessary or appropriate in the circumstances for an expert hired by the Commission to participate in the hearing, the hired expert, may, in accordance with these Rules, do the following:
- (a) File a written submission, in accordance with deadlines established in the notice of hearing,
  - (b) Present evidence,
  - (c) Be available for cross-examination by or on behalf of a participant, and
  - (d) Be available for examination by the Commission.

## **SECTION 28. SITE VISIT**

- 28.1 Prior to proceeding to a hearing, or during a hearing, the Commission may, on its own initiative, schedule a site visit. The Commission shall set the terms of reference for the site visit in advance and notify the parties in writing of the site visit and the terms of reference. The Commission may request that representatives from a community and any other person accompany the Commission on a site visit.

## **SECTION 29. WITHDRAWAL OF AN AMENDMENT APPLICATION**

- 29.1 An Amendment Applicant may file with the Commission a written application to withdraw the Amendment Application. The Commission may, with or without a hearing, grant an application to withdraw an Amendment Application on any terms that it considers appropriate.

## **SECTION 30. PROCEEDING IN THE ABSENCE OF A PARTICIPANT**

- 30.1 Where the Commission in accordance with these Rules has given notice of a proceeding and a participant does not participate in the proceeding, the Commission may proceed in that participant's absence and that participant may not be entitled to any further notice of that portion of the proceeding.
- 30.2 Unless excused by the Commission for good cause shown, failure of a participant to attend an oral hearing after being served with notice of the time and place in accordance with these Rules shall constitute a waiver of all objections to the agreements, orders or rulings reached in the proceeding.

## **SECTION 31. ADJOURNMENT AND REOPENING OF A PROCEEDING**

- 31.1 The Commission may, on its own initiative or on a motion by a participant, adjourn a hearing on any terms that the Commission considers appropriate.
- 31.2 Subject to the requirements of procedural fairness, the Commission may adjourn a hearing from time to time, and may, subject to the Agreement, and for any reason, reopen a hearing upon reasonable notice to the participants, for the purpose of receiving further representations and evidence.

## **SECTION 32. CONTENT AND FORM OF REPRESENTATIONS**

- 32.1 The Commission may specify in a notice of proceeding that any document or communication must be submitted to the Commission in a particular form.
- 32.2 No Commission proceeding is invalid because of an objection based only on a technical irregularity or a defect in form.
- 32.3 Subject to subsection 23.6 of these rules, participants may submit representations to the Commission within the timelines indicated in the notice.
- 32.4 Subject to any express limits imposed by the Commission under these rules, representations may generally include, but are not limited to, the following:
- (a) Summary of participant's interests, role and/or responsibilities;

- (b) Summary of participant's understanding of the matters and issues in the proceeding before the Commission;
  - (c) Summary of the results of the participant's review of any documents filed in the proceeding;
  - (d) Argument on how the Commission should interpret evidence and the relevance of evidence to the applicable principles listed in Section 7 of these rules;
  - (e) Request for any additional information necessary to reach a conclusion on any of the issues identified in the proceeding;
  - (f) Opinion regarding the requirement for an oral hearing if the Commission has notified that a proceeding will be conducted as a written hearing alone; and
  - (g) Any additional information that might be useful or relevant.
- 32.5 Subject to the limits under Rule 23.6 and the rules of evidence under Section 34 of these rules, a participant may submit with its representations evidence in the participant's possession and control that is relevant to the application, including traditional Inuit knowledge and opinion evidence.
- 32.6 If the Commission determines in the course of the public review that additional information is required from the Amendment Applicant, the Commission may extend the deadline for the submission of representations to allow participants to review any new information.
- 32.7 Provided that an Applicant would have a reasonable amount of time prior to the end of the public review to make a fulsome and meaningful response, at any time during the public review process including in a hearing the Commission may direct written or oral questions to any participant on any issue it considers relevant to the public review, either arising from a representation or from any relevant views, knowledge or information the participant may have, and provide written copies of those questions to all participants.

### SECTION 33. EVIDENCE: BURDEN OF PROOF

- 33.1 In cases where the Commission hears evidence, any participant offering such evidence shall have the burden of introducing appropriate evidence to support its position. Where there is conflicting evidence, the Commission will decide which evidence to accept and will generally act on a balancing of the evidence.
- 33.2 In weighing evidence, the Commission shall at all times give weighty consideration to traditional Inuit oral communications and decision making, including traditional Inuit knowledge, pursuant to but not limited to, Rules 34.7, 34.8, and Sections 44 and 47 of these Rules.

### SECTION 34. EVIDENCE: GENERAL

- 34.1 The Commission may allow the admission of evidence that would not normally be admissible under the strict rules of evidence.
- 34.2 The Commission may require a person giving evidence to do so under oath or affirmation, to be administered by a person authorized by law to administer oaths.

- 34.3 The Commission shall admit any relevant oral and, subject to filing in accordance with these Rules, any documentary evidence that is not protected by law from disclosure. Relevant evidence means evidence having any tendency to prove or disprove a fact in issue. The fact that the Commission deems evidence admissible does not mean that it will determine any fact in issue. The Commission may, however, exclude evidence if any of the following substantially outweigh its value:
- (a) The danger of unfair prejudice;
  - (b) Confusion of the issues;
  - (c) Considerations of waste of time;
  - (d) Duplication; and
  - (e) Presentation of repetitious evidence.
- 34.4 Any witness who will give opinion evidence in a hearing may be required by the Commission to file a statement of their qualifications on the public record before their evidence is considered.
- 34.5 The Commission may accept and enter into the public record the testimony of a witness made in writing, whether by an affidavit or unsworn, or orally in person or through an audio or video tape recording, and may request that the witness submitting a sworn written statement or verified recording be available for questioning at a hearing as may be required out of fairness to all participants.
- 34.6 Testimony in Commission hearings can also be presented by using audio visual or video format or by teleconference.
- 34.7 The Commission will encourage the provision of, and will consider, any Inuit traditional knowledge, including oral history, submitted during its proceedings.
- 34.8 The Commission may make appropriate arrangements to secure information from or to hear the testimony of Elders or the holders of local or traditional knowledge at any time during its proceedings.

## **SECTION 35. WRITTEN HEARINGS**

- 35.1 Where the Commission in its sole discretion elects to hold a written hearing, it may:
- (a) Dispose of the proceeding on the basis of the documents filed by the participants;
  - (b) Require additional information from the participants before disposing of the proceeding; and
  - (c) Determine at any time during a written hearing that the proceeding shall be disposed of by means of an oral hearing.

## **PART IV - ORAL HEARINGS**

### **SECTION 36. VENUE, SCHEDULE AND TIME LIMITS**

- 36.1 The Commission shall determine the location or locations and scheduling of an oral hearing, including the duration of time for all submissions at such oral hearings, giving



consideration to fairness to the participants, the location of the planning region to which a draft land use plan relates or the lands potentially affected by the Amendment Application in question, the promotion of public awareness and participation at the hearing, and the convenience to the parties.

## SECTION 37. INFORMAL AND FORMAL HEARING VENUES

- 37.1 Any hearings conducted by the Commission in connection with the Commission's proceedings under these rules shall be open to the public.
- 37.2 At its sole discretion the Commission may hold a single hearing for any planning region or area potentially affected by the Amendment Application at issue, or a number of hearings in those areas.
- 37.3 The primary purpose of an oral hearing is to present information to the Commission. The Commission may direct two types of hearing venues as part of an oral hearing:
  - (a) The informal hearing venue is an open forum community meeting which is held primarily to allow participants the opportunity to communicate their views about the proceeding in an informal environment, and submit evidence to the Commission relevant to its inquiry; and
  - (b) The formal hearing venue is a public meeting held primarily to allow the parties, as opposed to all participants, to present technical evidence to the Commission.
- 37.4 All information presented to the Commission at an informal hearing venue and a formal hearing venue, including comments from non-participants made under subsection 23.11 of these rules, may be considered by the Commission in its determination of the matter.
- 37.5 Prior to the commencement of an oral hearing, the Commission shall make reasonable efforts to provide a copy of the public record for the proceeding that is the subject of the hearing for public review in each community where an oral hearing is to take place.
- 37.6 Simultaneous English and Inuktitut interpretation shall be provided at a hearing to the extent reasonably possible. Additional language translation, if requested, may be considered by the Commission to the extent reasonably possible.
- 37.7 The Commission shall maintain and make available for public access to the extent reasonably possible through the course of an oral hearing a copy of the public record for the proceeding that is the subject of the hearing, and the Commission will make reasonable efforts to update the public record during the oral hearing to reflect submissions, oral or written, that are submitted in the hearing.

## SECTION 38. CHANGE OF VENUE

- 38.1 If a change of venue becomes necessary, the Commission shall make every effort to re-schedule the hearing in the best alternative location and with reasonable notice to the participants.

## SECTION 39. RELYING ON DOCUMENTS

- 39.1 Unless the Commission directs otherwise, a participant wishing to rely on documentary evidence at an oral hearing shall file the documentary evidence with the Commission and serve a copy of it on the other participants at least 15 days before the date of the hearing.
- 39.2 Documentary evidence of a technical nature must be accompanied by a statement setting out the technical qualifications of the person who prepared the documentary evidence or under whose direction or control the evidence was prepared. If the filed document is a compilation of contributions from technical experts, a list of the experts, their qualifications and the nature of their contribution to the technical report or material must be submitted.
- 39.3 If a participant is unable to file all documentary evidence 15 days before the oral hearing takes place, the participant shall file with the Commission and serve on the other participants such documentary evidence that is available at that time and a statement identifying the balance of the documentary evidence to be filed and served and stating when the balance of the documentary evidence will be filed and served.
- 39.4 If a participant is not willing or able to file documentary evidence when directed to do so by the Commission pursuant to Rule 39.1, the participant shall file a statement setting out the reasons why the participant is not willing or able to do so.
- 39.5 A witness of a participant presenting evidence at an oral hearing shall confirm on oath or affirmation that the documentary evidence was prepared by the witness or under the witness's direction and control, and is accurate to the best of the witness's knowledge and belief.
- 39.6 Where an oral hearing is in progress, a participant entering a document as an exhibit shall provide copies of the document to the Commission and all other participants.
- 39.7 Unless the Commission otherwise directs, no documentary evidence may be presented at an oral hearing unless the evidence is filed and served in accordance with these Rules.

#### SECTION 40. REQUESTING ATTENDANCE OF WITNESSES

- 40.1 The Commission may, on its own initiative or at the request of a participant, request a person to attend an oral hearing as a witness at the time and place stated in the request, and to produce the documents or other things in the person's possession, control or power as set out in the request.
- 40.2 A witness requested by the Commission to attend a hearing under Rule 40.1 is under no legal obligation to do so.
- 40.3 A witness requested by the Commission shall be paid conduct and witness fees as agreed to between the witness and the Commission.

#### SECTION 41. TRANSCRIPTS AND RECORD OF PROCEEDINGS

- 41.1 The Commission may at its discretion direct that written transcripts of an oral hearing be prepared. Where the Commission directs such transcripts be prepared the

Commission shall make the transcripts available to the participants and the public on a cost recovery basis.

- 41.2 A participant requiring a written transcript of an oral hearing not available pursuant to Rule 41.1 shall file a request for the preparation of written transcripts at the participant's own expense. The request shall be filed with the Commission as early as possible.
- 41.3 The Commission shall make available a copy of the record of its proceedings for public review at the Commission office during regular business hours.

## SECTION 42. TRANSLATION

- 42.1 The Commission shall conduct its oral hearings in Canada's official languages as required by legislation or policy. Upon request of any member of the Commission or a participant, the Commission may arrange for interpretation and/or translation services in Inuktitut or any other languages deemed necessary by the Commission as may reasonably be provided.

## SECTION 43. ORAL EVIDENCE GENERALLY

- 43.1 The Commission, in keeping with the Charter of Rights and Freedoms, and relevant law dealing with evidence and privilege, may at an oral hearing limit introduction of evidence or issue such protective or other orders deemed necessary to prevent undue disclosure of classified, confidential or sensitive matters. Such matters include, but are not limited to, matters of national security, business or personal matters, or those of a proprietary nature. Where the Commission determines that specific information in documents containing classified, confidential, privileged or other sensitive matters should be received, the Commission may direct the participant to prepare an unclassified or non-sensitive summary or extract of the original. The summary or extract may be admitted as evidence in the record.
- 43.2 The Commission may hear and enter into the record direct testimony of a witness made by a sworn written statement or audio or visual recording, rather than by oral presentation at the hearing. A witness whose testimony is presented by a sworn written statement or audio or visual recording shall be available for cross- examination.

## SECTION 44. EVIDENCE: INUIT TRADITIONAL KNOWLEDGE

- 44.1 The Commission shall give due regard to Inuit traditional knowledge in all of its proceedings. Without limiting oral evidence of any other participant or member of the public, the Commission may, in an oral hearing, receive evidence from Elders, and shall give them the opportunity to speak at the beginning of a hearing, during a hearing, or at the conclusion of a hearing.

## SECTION 45. EVIDENCE: EXAMINATION IN CHIEF

- 45.1 Examination in chief of a witness or a panel of witnesses by counsel to the Commission or a participant shall be limited to the scope of the issues formulated by the

Commission in accordance with Rule 25.1. Questioning will be permitted to the extent necessary for full and true disclosure of the facts. The Commission may permit inquiry into additional matters if helpful to the Commission in reaching its decision.

#### SECTION 46. EVIDENCE: CROSS EXAMINATION

- 46.1 Cross-examination of a witness or panel of witnesses by another participant shall be limited to the scope of the direct evidence in question and to clarify the direct evidence, and, subject to the discretion of the Commission, shall be limited to witnesses whose testimony is adverse to the participant desiring to cross-examine.
- 46.2 If a witness or panel of witnesses is unable to respond to a question raised at the hearing, including due to time constraints, the Commission may direct that written submissions, and replies to those written submissions, be filed with the Commission by a specific date.

#### SECTION 47. EVIDENCE: EXPERT WITNESSES

- 47.1 An expert witness with technical and scientific, Inuit, or ecological knowledge shall file a summary of the expert's background, including qualifications and/or experience where appropriate, with the Commission at least 15 days prior to giving evidence at an oral hearing. At the Commission's direction, participants may be required to qualify expert witnesses at the hearing. This Rule does not apply to Elders.

#### SECTION 48. CLOSING ARGUMENTS AND BRIEFS

- 48.1 At the close of an oral hearing, the Commission may direct any participant at the proceeding to file a written brief, to propose findings of fact and conclusions of law, or to do both.

#### SECTION 49. CLOSING OF THE RECORD

- 49.1 At the conclusion of an oral hearing, the record shall be closed unless the Commission directs otherwise. Once the record is closed, no additional evidence shall be heard unless a written application is filed with the Commission and the Commission decides, following notification and submissions by the parties, that the evidence is material and that there was good cause for the failure to produce it in a timely fashion.

#### SECTION 50. ORDER OF EVENTS AT AN ORAL HEARING

- 50.1 Unless otherwise directed by the Commission, the order of events at an oral hearing relating to a public hearing are:
  - (a) Opening Prayer;
  - (b) Opening remarks by the Chairperson, which shall include the purpose of the hearing and the scope of matters to be considered by the Commission;
  - (c) Introduction of the Commission Members and staff;
  - (d) Identification and introduction of the participants;
  - (e) Introduction of the Elders and their role in the hearing;

- (f) Identification of any motions or objections;
  - (g) Presentation by the Commission staff;
  - (h) Questioning of the Commission staff by participants;
  - (i) Presentation by participants;
  - (j) Questioning of participants by Commission and any participants;
  - (k) Reply by Commission staff;
  - (l) Final closing statements by all parties;
  - (m) Closing remarks by the Chairperson; and
  - (n) Closing Prayer.
- 50.2 Unless otherwise directed by the Commission, the order of events at an oral hearing relating to a public review of an Amendment Application are:
- (a) Opening Prayer;
  - (b) Opening remarks by the Chairperson, which shall include the purpose of the hearing and the scope of matters to be considered by the Commission;
  - (c) Introduction of the Commission Members and staff;
  - (d) Identification and introduction of the participants;
  - (e) Introduction of the Elders and their role in the hearing;
  - (f) Identification of any motions or objections;
  - (g) Presentation by the Amendment Applicant;
  - (h) Questioning of the Amendment Applicant by other participants;
  - (i) Presentation by participants other than the Amendment Applicant;
  - (j) Questioning of participants by participants opposite in interest;
  - (k) Reply by Amendment Applicant;
  - (l) Final closing statements by all parties;
  - (m) Closing remarks by the Chairperson; and
  - (n) Closing Prayer.

## SECTION 51. FUNDING

- 51.1 Unless the Minister directs otherwise, the Commission will not fund a participant to participate in a hearing.
- 51.2 Unless the Minister directs otherwise, costs incurred by a participant to attend an oral hearing shall be borne by that participant.
- 51.3 Notwithstanding Rule 51.2, the Commission may arrange for citizens from a community close to the location or affected by a land use plan or Amendment Application to attend an oral hearing when, in the Commission's opinion, it is necessary to give due regard and weight to the tradition of Inuit oral communication and decision-making.

## SECTION 52. EFFECTIVE DATE

- 52.1 These Rules of Procedure for Public Hearings and Reviews apply to all public hearings and public reviews occurring after the date they are adopted by the Commission.

## SECTION 53. PUBLICATION OF THESE RULES

- 53.1 These rules shall be published as soon as possible after they are made on the Commission's website and in a newspaper or other periodical that, in the opinion of the Commission, has a wide circulation in Nunavut. Amendments to these rules shall be placed on the Commission's website and shall be made available to the public at any office of the Commission within a reasonable time after they are made, but need not be published in newspapers or periodicals except and to the extent required by law.