

REGULATIONS IN TERMS OF THE EASTERN CAPE PLANNING AND DEVELOPMENT ACT, 2013

The Member of the Executive Council of the Province of the Eastern Cape responsible for the administration of the Eastern Cape Planning and Development Act, 2013 (Act No ** of 2013), acting in conjunction with the Municipalities situated in the Province of the Eastern Cape, has, in terms of section 80 of the said Act, made the Regulations as set out in this Schedule.

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CHAPTER 1 DEFINITIONS

1. DEFINITIONS

Words defined in the Act shall have the same meaning in these regulations, and unless the context indicates otherwise:

- (1). “Act” means the Eastern Cape Planning and Development Act 2013 (Act No ** of 2013);
- (2). “secretary” means the Secretary of the Appeals Tribunal appointed in terms of section 23(10) of the Act;

CHAPTER 2 PROVINCIAL AND MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORKS

2. Provincial and Municipal Spatial Development Frameworks

If the MEC intends to determine additional items to augment and add to the content, objectives and purpose of the provincial spatial development framework or any municipal spatial development framework in terms of section 6(1) of the Act, the procedure for the preparation and adoption of such spatial development frameworks must be applied.

CHAPTER 3 PUBLIC PARTICIPATION AND PUBLIC NOTICE

3. Public participation and public notice

- (1). Whenever the Act requires public participation, subsections (a) to () shall apply.
 - (a). A municipal council may consider any application:
 - (i). on a consideration only of the documentation submitted by the applicant or any registered interested and affected party;
 - (ii). after hearing oral representations by or on behalf of the applicant and any registered interested and affected party at a hearing to which members of the public are enabled to be present; or
 - (iii). after a public meeting called by the municipality for which at least 30 days

public notice has been given and at which both the applicant and any registered interested and affected parties or their representatives are given an opportunity to address such meeting and members of the public are given an opportunity to comment.

(b). Public Notice for the purposes of subsection (a)(iii) shall include but not be limited to:

- (i). publication in a language commonly spoken in the area of the land to which the application relates in a newspaper circulating in that area,
- (ii). broadcast over radio and television in a language commonly spoken in the area of the land to which the application relates and which will be heard in that area,
- (iii). the erection of written notices in public places in a language commonly spoken in the area of the land to which the application relates and which will be seen in that area,
- (iii). any other appropriate mechanism.

(2). Where an application applies to communal land or concerns the members of a traditional community or any one or more of such members, public participation includes sub-regulations (a) and (b):

- (a). a process whereby the members of the traditional community, or those members of such traditional community directly or indirectly affected by any issue, are informed of the issue on which they are to be called upon to make a decision in an official language commonly spoken in the area concerned and in such a manner that reasonably and necessarily enables them to understand and appreciate the essential elements of such issue and make an informed decision thereon, and
- (b). that such decision is made at a public meeting of such members convened and held in accordance with their customs and practices but which is nevertheless democratic and inclusive in accordance with the provisions of the Bill of Rights of the Constitution of the Republic of South Africa, 1996, and

- (3). In the case of a municipality, the provisions of this clause must be applied in addition to the provisions of Chapter 4 of the Local Government: Municipal Systems Act No 32 of 2000.

4. Public Participation and Education

- (1). In addition to the procedures set out in section 27 of the Systems Act each Municipality shall after the adoption or amendment of its Spatial Development Framework and any zoning scheme:
 - (a). keep a copy of the Spatial Development Framework and any zoning scheme at its main offices and satellite offices to provide the public access thereto during its normal office hours;
 - (b). provide a copy to each of the libraries that is operated by it to provide the public access thereto during the normal hours of operation of the libraries in question; and
 - (c). provide a copy to every Councillor of the Municipal Council of the Municipality.
- (2). Subject to the availability of funding, the Premier and all Municipalities within the Province shall formulate and implement public awareness campaigns to inform the public of the purpose of Spatial Development Frameworks and its importance in the governance of Municipalities.

CHAPTER 4 ZONING SCHEMES

5. PREPARATION AND ADOPTION OF A ZONING SCHEME

- (1). The process relating to the adoption of a Zoning Scheme will commence by the publication of a notice containing the information set out in Schedule 1 to these Regulations.
- (2). The notice in terms of sub-regulation (1) shall be published in the official languages determined by the Municipal Council of the Municipality and must be published as

provide for in Regulation 3(1) and (2).

- (3). Any person, body or traditional council wishing to comment upon the content of the proposed Zoning Scheme shall be entitled to submit its written submissions or objections to the Municipality as provided for in the notice in terms of sub-regulation (1) within 60 days after the date specified for that purpose in the notice in terms of sub-regulation (1).
- (4). Upon compliance with sub-regulation (1) the Municipality shall submit its proposed Zoning Scheme to the Premier and any organ of state it deems necessary for their comments.
- (5). The Premier or any organ of state to which the proposed Zoning Scheme has been provided in terms of sub-regulation (4) shall provide their submissions or objections within 60 days after the comments were requested, failing which it will be deemed that the Premier and all other applicable organs of state does not have any submissions or objections regarding the proposed Zoning Scheme.
- (6). All submissions and objections received must be considered by the Municipality before it adopts the proposed Zoning Scheme or an amended version thereof.
- (7). Upon the adoption of the Zoning Scheme by the Council of the Municipality the Municipality shall:
 - (a). publish it in the Provincial Government Gazette; and
 - (b). ensure that at least one original copy thereof is available at the main office of the Municipality.

6. Review of a Zoning Scheme

- (1). Every Municipality that has adopted a Zoning Scheme in terms of the Act and these Regulations shall review its Zoning Scheme at least every five years to ensure that the Zoning Scheme is consistent with the provisions of the Spatial Development Framework of the Municipality.
- (2). Every Municipality that has adopted a Zoning Scheme in terms of the Act and these Regulations shall annually prepare and submit a report to the Premier which shall include:

- (a). the number of land use development applications received during the year in question, by category of different type of application;
 - (b). the number of land use development applications approved during the year in question, by category of different type of application;
 - (c). any provisions of the Zoning Scheme which the Municipality intends amending in order to make its operation more efficient;
 - (d). the number of land use development applications taken on appeal against a decision of the Municipality;
 - (e). any technological or other advancements identified that might necessitate the introduction of new land use zones into the Zoning Scheme; and
 - (f). any other matters relevant to the implementation and enforcement of the Zoning Scheme.
- (3). The report of the Municipality shall be submitted to the Premier within 60 days after the end of each financial year of the Municipality.

7. Amendment of a Zoning Scheme

- (1). Any amendment of a Zoning Scheme as a result of a decision of a Municipal Council or the Premier in respect of a land use development application or a decision by the Municipal Council in terms of sections 34(2) and 34(3) of the Act shall be recorded by the Municipal Manager in the land use management register or amendment scheme of the Municipality. An amendment in terms of this subsection shall not be deemed to be an amendment of the Zoning Scheme as made provision for in subsection (2).
- (2). If the Municipal Council of a Municipality has adopted a resolution to amend a Zoning Scheme to achieve its development objectives or for any other reason not provided for in subsection (1), the Municipality shall commence the process of adoption by the publication of a notice containing the information set out in Schedule 2 to these Regulations.
- (3). The notice in terms of sub-regulation (2) shall be published in the official languages determined by the Municipal Council of the Municipality and must be published as provide for in Regulation 3(1) and (2).

- (4). Any person, body or traditional council wishing to comment upon the content of the proposed amendment of the Zoning Scheme shall be entitled to submit its written submissions or objections to the Municipality as provided for in the notice in terms of sub-regulation (2) within 60 days after the date specified for that purpose in the notice in terms of sub-regulation (2).
- (5). Upon compliance with sub-regulation (2) the Municipality shall submit its proposed amendments of the Zoning Scheme to the Premier and any organ of state it deems necessary for their comments.
- (6). The Premier or any organ of state to which the proposed amendments to the Zoning Scheme have been provided in terms of sub-regulation (5) shall provide their submissions or objections within 60 days after the comments were requested, failing which it will be deemed that the Premier and all other applicable organs of state does not have any submissions or objections regarding the proposed amendment of the Zoning Scheme.
- (7). All submissions and objections received must be considered by the Municipality before it adopts the proposed Zoning Scheme or an amended version thereof.
- (8). Upon the adoption of the amendment of the Zoning Scheme by the Council of the Municipality the Municipality shall:
 - (a). (a) publish it in the Provincial Government Gazette; and
 - (b). (b) ensure that at least one original copy thereof is available at the main office of the Municipality.
- (9). The Zoning Scheme published in terms of sub-regulation (8) shall commence on the date of publication in the Provincial Government Gazette or the date made provision for in the amended Zoning Scheme itself.

8. Content of a Zoning Scheme

- (1). The scheme regulations referred to in section 31(1)(a) of the Act shall include the matters contained in Schedule 3 to these Regulations.
- (2). The zoning map referred to in section 31(1)(b) of the Act shall include the matters contained in Schedule 4 to these Regulations.

- (3). The register referred to in section 31(1)(c) of the Act shall include the matters contained in Schedule 5 to these Regulations.
- (4). A Zoning Scheme shall provide for the relaxation or variation of conditions of a Zoning Scheme.
- (5). The provisions of a Zoning Scheme providing for the relaxation or variation of conditions shall include matter relating to:
 - (a). building lines;
 - (b). the provision of parking;
 - (c). the height and coverage of buildings;
 - (d). access or egress restrictions;
 - (e). any temporary departures allowed; and
 - (f). any other matters considered appropriate by a Municipality.
- (6). A Municipality may include provisions relating to the payment of development contributions in a Zoning Scheme.

9. Uniform land use zones

- (1). The land use zones contained in a Zoning Scheme shall be in accordance with the land use zones defined in Schedule 6 to these Regulations.
- (2). The secondary purposes for which land may be used and developed as defined in Schedule 6 to these Regulations shall be determined by the Municipality.
- (3). The Premier may, after consultation with the Municipalities, define additional land use zones by way of regulation in terms of the Act.

10. General

The Municipality shall ensure that a printed copy of its Zoning Scheme is available at all reasonable times to the public.

CHAPTER 5 LAND USE AND DEVELOPMENT APPLICATIONS

11. Land use and development application form and prescribed fee

- (1). The land use and development application form as set out in Schedule 7 to these Regulations will be used to submit all land use and development applications in terms of the Act.
- (2). The land use and development application form as set out in Schedule 7 with the annexures required in terms thereof shall only be deemed to have been received by the Municipality or Premier if the land use and development application fee as determined by the Municipality or the Premier, as the case may be, has been paid.
- (3). The Municipality shall acknowledge receipt of the land use and development application as indicated on the copy of the land use and development application form.
- (4). If the approval a land use and development application is a prerequisite for investment on a Provincial scale, the construction of a large industrial or manufacturing development or the establishment of a mine, Schedule 7A to these Regulations shall be completed and submitted by the applicant with the Schedule 7 form, irrespective of whether the application relates to a category 1 or 2 land use and development application.

12. Registration of a land use and development application by a Municipality

- (1). The registration of a land use and development application shall be recorded in the land use and development register.
- (2). The land use and development register shall contain the information set out in Schedule 8 to these Regulations.
- (3). Subject to the provisions of Regulation 19, the applicant shall be notified by way of registered post of the registration of the land use and development application within 14 days after the recording of the land use and development application in the land use and development register in terms of subsection (2).
- (4). A land use and development application must only be registered when the requirements of Regulation 11(2) have been complied with.

13. Refusal of a land use and development application by a Municipality

- (1). A Municipality may refuse to register a land use and development application in terms of if the requirements of Regulation 11(2) are not complied with.
- (2). If a Municipality refuses to register a land use and development application it must notify the applicant by way of registered post of its decision and the reasons for the decision.

14. Procedure for land development application registered by a Municipality

- (1). Upon registration of a land development application the Municipality shall provide the applicant with a schedule which sets out every Municipal Department and organs of state on which a copy of the land use and development application must be served by the applicant.
- (2). The schedule referred to in sub-regulation (1) shall indicate which relevant documents, apart from the application form prescribed in Schedule 7 to these Regulations, shall be provided to the Municipal Departments or organs of state concerned.
- (3). The applicant shall serve the schedule referred to in sub-regulation (1) on the Municipal Department concerned by delivering it by hand to the Municipal Departments in question.
- (4). The applicant shall serve the schedule referred to in sub-regulation (1) on the organs of state concerned by delivering it by hand to the organs of state in question or by way of registered post to the address of the organs of state in question.
- (5). In addition to the Municipal Departments and organs of state referred to in subsection (1), a copy of the documents contemplated in sub-regulation (2) shall be served to any persons or bodies as may be directed by the Municipality and shall be:
 - (a). sent by registered post to the address of the person or body recorded by the Municipality; or
 - (b). delivered by hand to that person or body.
- (6). Any Municipal Department, organ of state, person or body on which the application has been served shall submit its comments to the Municipality within 40 days of receipt of the notice of the application.
- (7). Any comments of a Municipal Department shall, where applicable:
 - (a). include any requirements or conditions of the Municipal Department or organ of

- state concerned in any approval of the land use and development application;
- (b). all reasons, if any, why the land use and development application should not be approved;
 - (c). include the external engineering which will be required in any approval of the land use and development application; and
 - (d). a calculation of the amount of any development charge required in any approval of the land use and development application.
- (8). Upon the receipt of the of the applicant or the lapsing of the period in terms of sub-regulation (6), the application shall be decided upon in the manner as prescribed in terms of sections 35 and 40 of **SPLUMA**.

15. Procedure for land use and development applications submitted to the Premier

- (1). The Municipality shall submit the land use and development application to the office of the Premier.
- (2). The Premier shall register the land use and development application within 14 days after receipt thereof if the prescribed fee is paid and the land use and development application form together with annexures thereto are complete.
- (3). The Municipality land use and development application form shall be accompanied by written proof to the satisfaction of the Premier that the land use and development application conforms with the content of the Spatial Development Framework and the Zoning Scheme of the Municipality and confirmation that the Municipality is able to finance and manage the construction of the external and internal engineering services required in terms of the land use and development application, if applicable.
- (4). The Premier may refuse to register the land use and development application if the prescribed fees have not been paid or if the land use and development application form together with annexures thereto are incomplete or the information required in terms of sub-regulation (3) have not been submitted.
- (5). The Premier shall upon registration of the land use and development application notify the Municipality by way of a letter that the land use and development application has been registered.

- (6). The municipality shall within 14 days after receipt of the notice of registration of the application in terms of sub-regulation (5), give simultaneous notice of the application in the format similar to the notice as set out in Schedule 9 to these Regulations and in the following manner:
- (a). by publishing the notice in a local newspaper on two consecutive days;
 - (b). by serving a copy of the notice on every adjoining land owner by serving the notice personally, affixing it to the main entrance gate of each adjoining property or having it served by the sheriff of the Magistrates Court;
 - (c). by posting a copy of the notice on every street boundary of the land which is the subject of the application in such a manner that it is visible; and
 - (d). by informing any other person, body, traditional authority or organ of state with a substantial interest in the matter.
- (7). The Municipality shall provide proof of compliance with the provisions of sub-regulation (6) to the reasonable satisfaction of the Premier.
- (8). The Municipality shall, after the publication of the notice contemplated in sub-regulation (6), provide the Premier with the comments of all the Municipal Departments of the Municipality relating to the land use and development application.
- (9). Any person or body wishing to object to or make representations in respect of the land use and development application of the Municipality shall do so no later than 40 days after the publication of the last notice contemplated in sub-regulation (6) or the delivery of a notice or the service of a notice on such person, body, traditional authority or organ of state, where applicable, whichever is the later.
- (10). Any objection or representation shall be submitted to the Premier and shall state:
- (a). the name of the party concerned;
 - (b). the physical address at which the party concerned will accept notice or service of any documents;
 - (c). a short statement of the interest of the party concerned in the matter; and
 - (d). the objections or representations that the party wishes to make.
- (11). Any organ of state shall submit its recommendations or objections to the application

which shall, where applicable:

- (a). State any requirements or conditions of the organ of state concerned in any approval of the land use and development application; and
 - (b). set out reasons, if any, why the land use and development application should not be approved.
- (12). Any objections or recommendations received by the Premier shall be forwarded to the Municipality via registered post or delivered by hand within 10 days after the lapsing of the periods contemplated in sub-regulations (6) and (9).
- (13). If the Municipality intends to reply to any of the recommendations or objections received, it shall do so within 22 days after receipt of objections or recommendations in terms of sub-regulation (7).
- (14). Upon the receipt of the reply of the Municipality contemplated in sub-regulation (13) or the lapsing of the period in terms of sub-regulation (13), the application shall be decided upon by the Premier.
- (15). The Premier shall inform the Municipality and all parties that submitted recommendations, presentations or objections of his or her decision regarding the land use and development application by way of registered post.
- 16. Establishment of a township, extension of township boundaries and amendments to general plans**

- (1). A township shall be established or the boundaries of a township shall be extended on any farm portion where the land concerned is to be used, developed or subdivided for any purpose other the agricultural or nature conservation purposes as defined in the applicable Zoning Scheme.
- (2). An application for the amendment or the partial or total cancellation of a General Plan of a township:
 - (a). may only be made by or on behalf of a person or persons who is or are the owner or owners of all the erven affected by such amendment or cancellation;
 - (b). must be accompanied by proof that the provisions of the Act relating to the closure of public open spaces have been complied with.
- (3). If the approval of a Category 1 land use and development application includes the establishment of a township, the extension of the boundaries of a township, the cancellation or partial cancellation or the amendment of General Plan, the General Plan, diagrams and any other plans and documents required by the Surveyor General must be submitted to the Surveyor General for approval or amendment within 2 years of the date of publication of the notice of approval of the relevant land use and development application, failing which the approval of the said application will lapse.
- (4). After the approval of a General Plan and/or diagrams of a township or the extension of the boundaries of a township by the Surveyor General, the Applicant must, within 12 months of the date of such approval, lodge such plan and/or diagrams together with any other documents required with the Registrar of Deeds, failing which the approval of the application shall lapse.
- (5). Where any general plan, diagram or document submitted to the Surveyor General or Registrar of Deeds contains any errors or omissions, such errors or omissions must be rectified by the applicant.
- (6). Before the General Plan and/or diagrams of a township are lodged with the Registrar of Deeds in terms of sub-regulation (3) the applicant may apply to the Municipality for a township to be divided into two or more townships and on approval thereof all applicable provisions shall apply, with the necessary changes, to the divided townships as if each was separately created.

- (7). On approval of a township being divided into two or more townships the Municipality must advise the Surveyor General accordingly and the Surveyor General must cancel any relevant general plan or part thereof and any diagram of the township which has been divided.
- (8). Where a township is approved on two or more contiguous farm portions such farm portions must be consolidated prior to the registration of the township in a Deeds Registry and the consolidation of such farm portions must be deemed to be approved in the approval of the township.

CHAPTER 6 APPEALS

17. Lodgement, content and issuing of a notice of appeal

- (1). A notice to appeal against any decision of a Municipality shall be lodged with the Secretary of the Appeal Tribunal.
- (2). The notice to appeal must be lodged with the Secretary within 21 days after the notice recording the decision of the Municipality, together with the written reasons for the decision, was provided to the appellant.
- (3). The notice to appeal referred to in sub-regulation (1) shall contain:
 - (a). the name of the appellant;
 - (b). the party whose decision is being appealed;
 - (c). the date of the decision being appealed;
 - (d). a copy of the decision to which the appeal relates if available at the time of the lodgement of the appeal;
 - (e). the portions of the decision being appealed against;
 - (f). the grounds on which the appeal is based;
 - (g). a list of all documents under the control of the appellant at the time of lodgement of the appeal which will be used by the appellant during the appeal;
 - (h). a sworn affidavit by the land owner or his representative duly authorised thereto

in terms of a power of attorney confirming the intention of the owner of the land to appeal against the decision in question;

- (i). the address where the appellant will accept any opposing documents filed by any party wishing to oppose the appeal; and
 - (j). notice that a party wishing to oppose the appeal must do so within 10 days after receipt of the notice to appeal and that a failure to oppose an appeal might result in the Appeal Tribunal making a decision that might have adverse implications to the party on which the notice of appeal has been served.
- (4). If the requirements of a notice to appeal as contemplated in sub-regulation (3) have been complied with, the office of the Secretary shall issue the Notice of Appeal by assigning a specific reference number to it and appending its office stamp the notice of appeal.
 - (5). If the requirements of a notice to appeal as contemplated in sub-regulation (3) have not been complied with, the office of the Secretary may refuse to issue the Notice of Appeal until such time as the appellant complies with the provisions of sub-regulation (3).
 - (6). Unless the Secretary directs otherwise, an appellant may not amend the grounds of appeal as contemplated in sub-regulations 3(e) and 3(f).

18. Service of a notice to appeal

- (1). A notice of appeal shall be served by the appellant on the physical addresses of any person or body who submitted any recommendations or objections to the decision being appealed against and the Municipality.
- (2). The appellant shall provide proof of the service of the notice of appeal to the office of the Secretary.

19. Opposition of an appeal

- (1). Any party on which a notice of appeal as contemplated in regulation 4(1) has been served shall be entitled to oppose the appeal by delivering a notice of opposition to the appellant and the Secretary within 10 days after receipt of the notice of appeal.
- (2). A notice of opposition referred to in sub-regulation (1) shall contain:

- (a). the name of the party opposing the appeal;
- (b). the grounds of appeal that is opposed;
- (c). the grounds on which the appeal is being opposed;
- (d). a list of all documents under the control of the party opposing the appeal at the time of the filing of the notice of opposition which will be used by the party during the appeal;
- (e). a sworn affidavit by the party opposing the appeal or a power of attorney confirming the intention of the party to oppose the appeal;
- (f). the address where the party opposing the appeal will accept any documents relating to the appeal.

27. Conciliation meeting

- (1). The Secretary shall appoint one of its members to act as a conciliator during a conciliation meeting between the appellant and all parties opposing the appeal.
- (2). The Secretary will by way of written notice inform the appellant and all parties opposing the appeal of the time, date and venue of the conciliation meeting.
- (3). If any party to the appeal fails to attend the conciliation meeting as referred to in sub-regulation (2), the Secretary shall by way of notice schedule another conciliation meeting in terms of sub-regulation (2).
- (4). If the parties come to an agreement during the conciliation meeting, the conciliator shall submit the agreement reached to the Secretary to decide upon in the manner made provision for in terms of section ** of the Act.
- (5). Upon completion of the conciliation meeting, the conciliator will issue a report and provide a copy thereof to all the parties to the appeal and the Secretary.
- (6). The conciliator will conduct the conciliation meeting in an informal manner.
- (7). The appellant and all other parties opposing the appeal shall not be entitled to legal representation during the conciliation meeting.
- (8). None of the submissions or admission made by any party during the conciliation meeting shall be allowed as evidence during the hearing of an appeal by the Secretary.

Comment [PR1]: This and the next section are from the NC Regs. They are included for consideration. If accepted, then the Act must be amended to make provision for them – section **.

- (9). The conciliator may not form part of the Secretary hearing an appeal to which the conciliation meeting in which he or she was the conciliator relates.

20. Mediation meeting

- (1). The Secretary shall appoint one of its members to act as a mediator during a mediation meeting between the appellant and all parties opposing the appeal.
- (2). The Secretary will by way of written notice inform the appellant and all parties opposing the appeal of the time, date and venue of the mediation meeting.
- (3). If any party to the appeal fails to attend the mediation meeting as referred to in sub-regulation (2), the Secretary shall by way of notice schedule another mediation meeting in terms of sub-regulation (2).
- (4). If the parties to the appeal come to an agreement during the mediation meeting, the conciliator shall submit the agreement reached to the Secretary to decide upon in the manner made provision for in terms of section ** of the Act.
- (5). If the parties to the appeal cannot come to an agreement during the mediation meeting, the mediator shall issue a report to that effect to all the parties to the appeal and to the Secretary.
- (6). During the mediation meeting the mediator shall try in an impartial manner to try and assist the parties to the appeal to reconcile their differences in an amicable manner.
- (7). The mediator will conduct the conciliation meeting in an informal manner.
- (8). The appellant and all other parties opposing the appeal shall not be entitled to legal representation during the conciliation meeting.
- (9). None of the submissions or admission made by any party during the mediation meeting shall be allowed as evidence during the hearing of an appeal by the Secretary.
- (10). The mediator that conducts a mediation meeting may not form part of a Secretary hearing an appeal to which the mediation meeting relates.

21. Withdrawal of an appeal or notice of opposition of an appeal

- (1). An appeal or opposition to an appeal may be withdrawn at any time prior to the adjournment of the hearing of an appeal as contemplated in regulation 32.
- (2). An appellant or any party opposing the appeal withdrawing their appeal or opposition of

appeal shall do so by giving notice to the Secretary and all other parties to the appeal.

- (3). The Municipality may make a cost order against any party to the appeal that withdraws its appeal or opposition to an appeal or if requested in writing by a party to the appeal.

22. Scheduling of the hearing an appeal

- (1). The Secretary shall, not later than 20 days after the receipt of the report of the mediator in terms of sub-regulation 28(5), determine the date, place and time of the hearing of the appeal and shall notify all the parties to the appeal.
- (2). In addition to the parties to the appeal, the Secretary shall give notice of the date, place and time of the hearing of the appeal to all parties to the appeal.
- (3). Not less than 14 days prior to the date of the appeal hearing, the appellant and any other party to the appeal shall submit a written summary of its arguments to the Secretary and the other parties to the appeal.

23. Subpoena of witnesses and joinder applications

- (1). The Appeal Tribunal may of its own accord or if requested to do so in writing by any party to the appeal subpoena a person to attend the appeal hearing.
- (2). Any party to an appeal or an interested party may by way of notice request that a party be joined to an appeal.
- (3). All applications relating to the joinder of a party to the appeal shall, wherever practical to do so, be heard and decided upon by the Secretary prior to the hearing of the appeal.
- (4). The hearing of any joinder application, if not heard on a date of the hearing of the appeal, shall be heard on a date, place and time to be determined by the Secretary.
- (5). Notice of the hearing of any joinder application shall be given by the Secretary to all parties to the appeal and the party who is subject of the joinder application.

24. Hearing and determination of an appeal

- (1). Prior to the hearing of arguments on the merits of the appeal by the parties to the appeal, the Appeal Tribunal shall hear and adjudicate all:
 - (a). preliminary points raised by any party to the appeal;
 - (b). jurisdictional arguments raised by any party to the appeal;

- (c). condonation applications submitted by any party to the appeal; and
 - (d). joinder applications relating to the appeal.
- (2). Save for an appeal referred to in section 61(1), during the hearing of the appeal the Appeal Tribunal may:
- (a). hear evidence from any person that received a subpoena to attend the appeal;
 - (b). conduct any site visit to the land to which the appeal relates to of its own accord or requested if by any party to the appeal to do so; and
 - (c). request any additional information from the parties to the appeal.
- (3). Upon the conclusion of the appeal hearing the Secretary shall adjourn the proceedings, if necessary and determine the appeal.
- (4). Any determination or recommendation resulting from an appeal hearing shall be provided in writing with written reasons for the determination or recommendation to all parties to the appeal.

CHAPTER 7 FEES AND TARIFFS

25.