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1) INTRODUCTION

Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1990 (the Constitution) provides:

- a) **Everyone has the right of access to**
 - i) **Any information held by the State; and**
 - ii) **Any information that is held by another person and that is required for the exercise or protection of any rights.**

- b) **National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state**

The Promotion of access to Information Act, 2 of 2000 was enacted on 3 February 2002 to give effect to section 32 of the constitution, thus giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is for the exercise or protection of any rights. Where a request is made in terms of this Act, the private or public body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The act sets out the requisite procedural issues attached to such request.

The Act came into effect on 9 March 2001 with the exception of sections 10, 14, 16 and 51 which sections were brought into operation on 15 February 2002.

All reference to "the Act" in this document refers to the Promotion of Access to Information Act no.2 of 2000 unless otherwise indicated.

2) PARTICULARS IN TERMS OF SECTION 14

a) The objectives and the structure of the Amajuba District Municipality

i) **The objectives of the Amajuba District Municipality**

The main objectives of the Amajuba District Municipality is the creation and enhancement of infrastructure and service delivery throughout the Newcastle, Dannhauser and Utrecht regions.

The following objectives have been agreed to guide development in the Amajuba District:

- (1) To achieve sound management , administration and development in the District;
- (2) To ensure that municipal services are provided to all communities within the Amajuba District in the most efficient, effective, affordable and sustainable manner;
- (3) To facilitate, encourage and support the development of the local economy and job creation;
- (4) To ensure that social services are provided to all communities within the Amajuba District in the most efficient, effective and sustainable manner
- (5) To rehabilitate and improve the environment;
- (6) To facilitate sound development in the district;

ii) **The Governance structure of the Amajuba District Municipality**

The Amajuba District Municipality (DC25) comprises of three municipalities – Newcastle Municipality (KZ252), Utrecht Municipality (KZ253) and Dannhauser Municipality (KZ254). The Municipality is made up of twenty five Councillors (including

the Mayor and Deputy Mayor).

The Full Time Councillors who are members of the Executive Committee are Cllr. J.C.N Khumalo (Mayor), Cllr. MN Majola (Deputy Mayor), Cllr. N.A Zwane, Cllr. Cllr M.E Zwane and Cllr. S.B Hlatshwayo

Part of the organisation of the Amajuba District Municipality is the standing portfolio committee system that the Council established. This committee system is based on the following principles:

- The committee system ensures that all Councillors are involved in decision making and policy making;
- all matters are properly considered and debated prior to decisions being taken; and
- Provides the political supervision and accountability over the administration.

The following are standing committees within the Amajuba DM

- Finance
- Corporate Services
- Planning and Development Services
- Community Services; and
- Engineering Services

3) Contact details

Any person who wishes to request any information from the Amajuba District Municipality with the object of protecting or exercising a right may contact the Information Officer whose contact details are as follows:

Information Officer:

Mr. L.M Africa, Municipal Manager

General information:

Address: B9356 Amajuba Building
Section 1, Madadeni

Postal address: Private Bag 6615
Newcastle
2940

Telephone: 034 314 3759

Fax: 034 314 3785

e-mail: mpumes@amajuba.gov.za

The Executive Committee of the Amajuba District Municipality has duly authorised the Deputy: Public Relations to deal with all matters in connection with requests for information in terms of the Promotion of Access to Information Act, 2 of 2000.

Deputy Information Officer:
Mr Sbonelo Cebekulu

Address: B9356 Amajuba Building
Section 1, Madadeni

Postal address: Private Bag 6615
Newcastle
2940

Telephone: 034 314 3759
Fax: 034 314 3785

e-mail: sboneloc@amajuba.gov.za

The Deputy Information Officer will rely on the assistance of each HOD in obtaining specific information from the department.

4) The section 10 Guide on how to use the Act

In terms of section 10 of the Act, the Human Rights Commission must compile a guide by 14 August 2003. This guide is intended to assist users in the interpretation of the Act. The guide will contain a description of the objects of the Act, the contact details of the Information Officers of all public bodies, particulars of the public bodies, the manner of access to the records of those public bodies and the remedies available in law regarding a breach of any of the provisions of the act.

The guide will be available from the South African Human Rights Commission by not later than August 2003. Please direct any queries to:

The South African Human Rights Commission:

PAIA Unit The Research and Documentation Department

Postal address: Private Bag 2700
Houghton
2041

Telephone: 011 484-8300
Fax: 011 484-1360
Website: www.sahrc.org.za
E-mail: PAIA@sahrc.org.za

5) Access to the records held by the Amajuba District Municipality

a) Records that may be requested based on the responsibilities of the department

Community Services	Planning & Development Services	Corporate Services	Engineering Services	Finance
<ul style="list-style-type: none"> - Passenger Transport - Health - Fresh Produce - Abattoirs - Cemeteries - Crematoria - Nature Conversation - Parks & Recreation - Fire Fighting - Protection Services - Safety and Security - Disaster Management - Emergency Services - Civil Defence - Project Management - Programme Management - Contracts Management - Sourcing Management 	<ul style="list-style-type: none"> - Integrated Development Planning - Land use management - Marketing - Communication - Public Relations - Environmental Services - Local Economic Development - Local Tourism - Project Management - Programme Management - Contracts Management - Sourcing Management 	<ul style="list-style-type: none"> - General administration function - Secretariat Function - Legal - Council Support - Policies and Procedures - Asset Management - Facilities Management - Capacity Building - Human Resources 	<ul style="list-style-type: none"> - Water - Electricity - Sanitation - Solid Waste Sites - Municipal Roads - Municipal Airports - Communication Infrastructure, Sport & Culture - Public Works - Housing & Land Affairs - Business Planning - Project Management - Programme Management - Contracts Management - Sourcing Management - Regulator and Monitoring - Implementation Agent 	<ul style="list-style-type: none"> - Grants - Tax, levies etc. - Income - Debtor management - Expenditure - Budgets - Logistics - Payroll - Insurance - Loans and Investments - Cash Flow

6) The request procedures

A requester must be given access to a record of a public body if the requester complies with the following:

- The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and
- Access to that record is not refused on any ground of refusal mentioned in the Act.

a) **Nature of the request:**

- i) A request must be made on a prescribed form and sent to the Information Officer an example of the form is included. It is called “request for access to record of public body”. These forms will be available from the Deputy Information Officer of the Amajuba District Municipality and will provided free of charge.
- ii) The requester must also indicate if the requester is for a copy of the record or if the requester wants to come in and look at the record at the offices of the municipality.

Alternatively if the record is not a document it can then be viewed in the requested form, where possible [s 29(2)].

- iii) If a person asks for access in a particular form then the requester should get access in the manner that has been asked for. This is unless doing so would interfere unreasonably with the running of the municipality or the office concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in an alternate manner, then the fee must be calculated according to the way that the requester first asked for it [s 29(3) and (4)].
- iv) If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g. telephone, this must be indicated.
- v) If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made should be indicated.
- vi) If a requester is unable to read or write, or has a disability, then the request for the record can be made orally. The information officer must then fill in the form on behalf of such a requester and give them a copy.

b) Fees

There are two types of fees required to be paid in terms of the Act, being the request fee and the access fee [s22]: These fees will be paid to a specific vote as arranged by the Information Officer with the Director: Financial Services. The specific vote may be utilized to cover the cost of making information available to requesters.

- i) A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:
- ii) The information officer must notify the requester by notice, requiring the requester to pay the prescribed fee before further processing the request.
- iii) The request fee payable to the municipality is R35. The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of the request fee.
- iv) After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.
- v) If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

7) Grounds for refusal of a request [chapter 4, section 34(1), 35(1), 36(1), 37(1), 38(1), 39(1) page 21]

Access will be refused on the following grounds:

- a) Mandatory protection of privacy of a natural person
- b) Mandatory protection of commercial information of a third party
- c) Mandatory protection of certain confidential information

- d) Mandatory protection of safety of individuals, and protection of property
- e) Mandatory protection of records privileged from production in legal proceedings (*someone cannot use the act to obtain information to be used in legal proceedings after the proceedings have commenced*)
- f) Mandatory protection of any copyright protected material provided by individuals outside of the municipality

8) Appeals against decisions

How to appeal – internal appeal

A requester may lodge an internal appeal against a decision made by the Information Officer. An internal appeal is lodged with the Council at its address within 14 days from the date of refusal.

9) Prescribed fees

1. The fee for a copy of the manual as contemplated in regulation 5(c) is R0,60 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 7(1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
(c) For a copy in a computer-readable form on –	
(i) stiffy disc	5,00
(ii) compact disc	40,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	22,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	12,00
(ii) For a copy of an audio record	17,00

3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is R35,00.
4. The access fees payable by a requester referred to in regulation 7(3) are as follows:

	R
(1)(a) For every photocopy of an A4-size page or part thereof	0,60
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,40
(c) For a copy in a computer-readable form on -	
(i) stiffy disc	5,00

- | | | | |
|-----|------|--|-------|
| | (ii) | compact disc | 40,00 |
| (d) | (i) | For a transcription of visual images,
for an A4-size page or part thereof | 22,00 |
| | (ii) | For a copy of visual images | 60,00 |
| (e) | (i) | For a transcription of an audio record,
for an A4-size page or part thereof | 12,00 |
| | (ii) | For a copy of an audio record | 17,00 |
| (f) | | To search for and prepare the record for disclosure, R15,00 for each hour or part of
an hour, excluding the first hour, reasonably required for such search and
preparation. | |
| (2) | | For purposes of section 22(2) of the Act, the following applies: | |
| | (a) | Six hours as the hours to be exceeded before a deposit is payable; and | |
| | (b) | one third of the access fee is payable as a deposit by the requester. | |
| (3) | | The actual postage is payable when a copy of a record must be posted to a
requester. | |

4. Prescribed forms for access to a record.

FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

FOR DEPARTMENTAL USE

Reference number:

Request received by (state rank, name and surname of information officer/deputy information officer) on (date) at (place).

Request fee (if any): R

Deposit (if any): R

Access fee: R

SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER

A. Particulars of public body

The Information Officer/Deputy Information Officer:.....

B. Particulars of person requesting access to the record

(a) The particulars of the person who requests access to the record must be recorded below.

(b) Furnish an address and/or fax number in the Republic to which information must be sent.

(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

Identity number: Postal address:

Fax number:..... Telephone number:.....

E-mail address:.....

Capacity in which request is made, when made on behalf of another person:

.....

C. Particulars of person on whose behalf request is made

This section must be completed only if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

D. Particulars of record

(a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.

*(b) If the provided space is inadequate please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.***

1. Description of record or relevant part of the record:.....

2. Reference number, if available:

3. Any further particulars of record:

E. Fees

*(a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.*

(b) You will be notified of the amount required to be paid as the request fee.

*(c) The **fee payable for access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.*

(d) If you qualify for exemption of the payment of any fee, please state the reason therefore.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:		Form in which record is required:	
<p>Mark the appropriate box with an "X".</p> <p>NOTES:</p> <p>(a) Your indication as to the required form of access depends on the form in which the record is available.</p> <p>(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.</p> <p>(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</p>			
1. If the record is in written or printed form -			
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
2. If record consists of visual images -			
(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)			
<input type="checkbox"/>	view the images	<input type="checkbox"/>	copy of the images*
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound -			
<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input type="checkbox"/>	transcription of soundtrack* (written or printed document)

4. If record is held on computer or in an electronic or machine-readable form -					
	printed copy of record*		printed copy of information derived from the record*		copy in computer readable form* (stiffy or compact disc)
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? A postal fee is payable.				YES	NO
<i>Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.</i>					
In which language would you prefer the record?					

G. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved/denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at this..... day of..... 20.....

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

.....