

EMAKHAZENI LOCAL MUNICIPALITY



PROMOTION OF ACCESS TO INFORMATION MANUAL

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THE PROMOTION OF ACCESS TO INFORMATION ACT NO. 20 OF 2000 (THE ACT)

1. OBJECTS OF THE ACT

The objects of the act are to give effect to the constitutional right of access of any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights, and to provide for matters connected therewith.

The Act want to foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information. The act actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all their rights.

Bearing in mind that:

The Act recognizes that access to information cannot be unlimited and is subject to justifiable limitations.

2. MANUAL: EMAKHAZENI LOCAL MUNICIPALITY

Emakhazeni Local Municipality is part of the Local Sphere of government established in terms of the Municipal Structures Act, 1998. As part of Government, the Manual is to meet the goals of the Promotion of Access to Information Act 20 of 2000.

3. CONTACT DETAILS

Emakhazeni Local Municipality has the information officer who is the municipal manager and the Deputy Information officer who is the corporate service manager. Their contact details are as follows:

**Address: Municipal Offices P O Box 17
No 24 Scheepers Street, Emakhazeni, 1100**

Tel: (013) 235 7600

Fax: (013) 253 1889

Email: municipality@emakhazenilm.co.za

4. ACCESS TO RECORDS: GROUNDS FOR REFUSAL GROUNDS TO REFUSE A REQUEST FOR INFORMATION ARE:"-

- 4.1 Mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person?
- 4.2 Mandatory protection of the commercial of a third party, if the record contains:
 - 4.2.1 Trade secrets of that third party;
 - 4.2.2 Financial, commercial, scientific and technical information which closure could likely cause harm to the financial or commercial interest of that third party
 - 4.2.3 Information disclosed in confidence by a third party to Emakhazeni Local Municipality, if he disclose could put that third party at a disadvantage in negotiations or commercial competition;
- 4.3. Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- 4.4 Mandatory protection of the safety of individuals and the protection of property;
- 4.5 Mandatory protection of records which would be regarded as privileged in legal proceedings
- 4.6 The commercial activities of Emakhazeni Local Municipality which may include:-

- 4.6.1 Financial commercial scientific or technical information which disclosure could likely cause harm to the financial or commercial interest of Emakhazeni Local Municipality
- 4.6.2 Information which, if disclosed may put Emakhazeni Local Municipality at a disadvantage in negotiations or commercial competition.
- 4.6.3 A computer program which is owned by Emakhazeni Local Municipality and which is protected by copyright.
- 4.7 The research information of Emakhazeni Local Municipality or a third party, if its disclosure would disclose the identity of Emakhazeni Local Municipality, the researcher or the subject matter of the research and would place the research at a serious disadvantage;
- 4.8 Request for information that are clearly frivolous or vexatious, or which involve unreasonable diversion of resources shall be refused.

5. ACCESS TO RECORDS: HOW TO ACCESS INFORMATION

- 5.1 A request is to be made on the prescribed form as per Attached Annexure B available at Emakhazeni Local Municipality offices at the Municipal Building
- 5.2. Different types of fees are payable depending on:-
 - The search for the information
 - Preparation
 - Reproduction and;
 - postage fee where applicable

ATTACHED AS PER ANNEXURE A ARE THE PRESCRIBED FEES THAT IS APPLICABLE IN OBTAINING THE INFORMATION

- 5.3 If all reasonable steps have been taken and a thorough search reveals that the records cannot be found, or does not exist, the relevant official will notify the requester that it is not possible to provide the information. If the record is later found, the requester concerned will be given access to the record, unless access has been refused on valuable grounds.
- 5.4 The requester will be advised within seven (7) days whether the request has been granted or not. If granted the requester will be advised of the access fee. Once the fee is paid and prove thereof is handed to the relevant official, the information in the relevant form available will be given.
- 5.5 Information to be made available, will be reproduce in a form that is reasonable possible for Emakhazeni Local Municipality to deliver it in, depending on available resources.

6. APPEAL AGAINST DECISIONS

A requester may lodge on internal appeal against a decision made by the relevant official. An internal appeal is to be lodged within 30 days from date of notification of the decision to the Mayoral committee of Emakhazeni Local Municipality as per Attached Annexure.

The Mayoral committee will make within 30 days of receipt of the appeal the final decision and will notify the parties involved. The notice will state adequate reasons for the decision, but will exclude any reference of the content of the record. The appellant, third party or requester as the case maybe, may lodge an application within the court against the decision of the Mayoral committee within 30 days.

The procedures to the court are set out in the act under chapter 2

7. LIABILITY

Council may not be criminally or civil liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power or duty in terms of the Act.

8. HUMAN RIGHTS COMMISSION

The requester of information whose application has been rejected may request the intervention of the Human Rights Commission who may be contacted as follows:

4th floor Caltex building
32 Bell Street
NELSPRUIT
1200
Tell: 013 752 8292
Fax: 013 752 6890
Email: cngwenyama@sahrc.org.za
Contact Person: Carol Ngwenyama

9. ANNEXURE A

9.1 PART 1 FEES IN RESPECT OF GUIDE

- The fee for a copy of the guide as contemplated in regulations 2(3)(b) and 3(4)(c) is R2.00 for every photocopy of an A4 size page thereof.

9.2 PART 2 FEES IN RESPECT OF PUBLIC BODIES

- The fees for a copy of the manual as contemplated in regulation 5(c) is R2.00 for every photocopy of an A4 size page or part thereof.
- The fees for reproduction referred to in regulations 7 (1) are as follows:-

Type of Copy	Price per page
A4 size	R2.00
A4 on a computer, electronically or machine readable form	R 0.70
Copy in computer readable on stifty disc	R7.00
Copy in computer readable on compact disc	R40.00
Copy in computer readable on compact disc	R22.00
Copy of visual images	R60.00
Transcription of an audio record, A4 or part of thereof	R14.00
Copy of an audio record	R22.00

- The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is R35, 00.

THE ACCESS FEES PAYABLE BY A REQUESTER REFERRED TO IN REGULATION 7 (3) ARE AS FOLLOWS:-

TYPE OF COPY	PRICE PER PAGE
A4 size	R2.00
A4 on a computer, electronically or machine readable form	R0.70
Copy in computer readable on stifty disc	R7.00
Copy in computer readable on compact disc	R40.00
Transcription of visual images, A4 size page	R22.00

- To search for and prepare the record from disclosure, R15,00 for each hour or part of an hour, excluding the first hours, reasonably required for such search and preparation.
- For purposes of section 22(2) of the Act, the following applies:-
 - Six hours as the hours to be exceeded before a deposit is payable; and
 - One third of the access fee is payable as a deposit by the requester
- The actual postage is payable when a copy of a record must be posted to a requester.

9.3 PART 3

FEES IN RESPECT OF PRIVATE BODIES

9.3.1. The fee for a copy of the manual as contemplated in regulation 9(2) is R2.00 for every photocopy of an A4 size page or part thereof.

9.3.2. The fees for reproduction referred to in the regulation 11(1) are as follows:-

Type of Copy	Price per page
A4 size	R2.00
A4 on a computer, electronically or machine readable form	R0.70
Copy in computer readable on stifty disc	R7.00
Copy in computer readable on compact disc	R40.00
Transcription of visual images, A4 size page	R40.00
Copy of visual images	R60.00

Transcription of an audio record, A4 or part of thereof	R20.00
Copy of audio record	R30.00

9.3.3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00

9.3.4. The access fees payable by a requester referred to in regulation 11(3) are as follows:-

Type of Copy	Price per page
A4 size	R1.10
A4 on a computer, electronically or machine readable form	R0.70
Copy in computer readable on stiffer disc	R7.00
Copy in computer readable on compact disc	R40.00
Transcription of visual images, A4 size page	R40.00
Copy of visual images	R60.00
Transcription of an audio record, A4 or part of thereof	R20.00
Copy of audio record	R30.00
To search and prepare the record for disclosure, each hour or part of a hour reasonable for preparation	R 30.00

9.3.5. For purposes of section 54(2) of the Act, the following applies:-

- Six hours as the hours to be exceeded before a deposit is payable; and
- One third of the access fee is payable as a deposit by the requester

9.3.6. The actual postage is payable when a copy of a record must be posted to a Requester.

10. ANNEXURE B

10.1 METHODS OF PAYMENT

Payments shall be reflected as per the Emakhazeni Municipality recent policy.

**10.2 REQUEST FOR ACCESS
For Departmental Use**

Reference: _____
Request received by _____
(State rank, name and surname of information officer/deputy information officer) on
_____ (date) at _____ (place)
Requested fee (if any) : R _____
Deposit (if any) R _____
Access fee R _____

**SIGNATURE OF INFORMATION
OFFICER / DEPUTY INFORMATION
OFFICER**

11. FORM A

To: THE INFORMATION OFFICER

PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORD

The particulars of the person who requests access to the record must be given below.
The address and/or fax number in the Republic to which the information is to be sent, must be given.

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

Full names and surname: _____

Identity number: _____

Postal address: _____

Tel: _____

Fax or E-mail address _____

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

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: _____

PARTICULARS OF RECORD

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.

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:

FEES

A request for access to a record will be processed only after a request fee has been paid. You will be notified of the amount required to be paid as the requested fee. 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.

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 in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

1. 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 THE REQUEST IS MADE**

**12. FORM B
NOTICE OF INTERNAL APPEAL**

STATE YOUR REFERENCE NUMBER _____

- A. TO THE INFORMATION OFFICER**
- B. PARTICULARS OF REQUESTER/ THIRD PARTY WHO LODGES THE INTERNAL APPEAL**

The particulars of the person who lodge the internal appeal must be given below. Proof of the capacity in which appeal is lodged, if applicable, must be attached. If the appellant is a third person who originally requested the information, the

particulars for the requester must be given at C below.

Full names and surname: _____

Identity number: _____

Postal address

Tel/fax: _____

Capacity in which an internal appeal on behalf of another person is lodged:

C. PARTICULARS OF REQUESTER

This section must be completed ONLY if the third party (other than the requester) lodges the internal appeal.

Full names and surname:

Identity number

: _____

D. THE DECISION AGAINST WHICH THE INTERNAL APPEAL IS LODGED

Mark the decision against which the internal appeal is lodged with X in the appropriate box:-

Refusal of request for access

Decision regarding fees prescribed in terms of section 22 of the Act

Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act

Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester

Decision to grant request for access

E. GROUNDS FOR APPEAL

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the internal appeal is based:-

State any other information that may be relevant in considering the appeal:

F. NOTICE OF DECISION ON APPEAL

You will be notified in writing of decision on your internal appeal. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

State the manner:-

Particulars of manner:

Signed at _____ this _____ day at _____ 20__

SIGNATURE OF APPLICANT