

# PAIA MANUAL



**XHARIEP DISTRICT MUNICIPALITY**

Date: 11/22/2011

# **XHARIEP DISTRICT MUNICIPALITY**

## **ACCESS TO INFORMATION MANUAL**

### **As required in terms of Section 14 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)**

This Manual contains information required to request access to the records of  
**Xhariep District Municipality**

#### **1. INTRODUCTION**

The promotion of Access to Information Act, No. 2 of 2000 (“the Act) came into effect on the 23<sup>rd</sup> November 2001. In terms of Section 14 of this Act public bodies are required to compile Manual giving information to the public regarding the procedure to be followed in requesting information from the Municipality for the purpose of exercising or protecting rights.

This Manual is being compiled not only to comply with the stipulations of this Act, but also to promote a culture of transparency and accountability in order to ensure that members of the public have effective access to the records in our possession which will assist them in the exercise and promotion of their rights.

This will apply to all records of the Municipality as defined in the Access to Information Act, No. 2 of 2000.

#### **2. DESCRIPTION OF THE STRUCTURE OF THE MUNICIPALITY**

The Municipality is an organ of state within the local sphere of government and was established by means of Provincial Notice No 181 published in the Free State Provincial Gazette of 28 September 2000.

The Municipality is a municipality with a mayoral executive system as contemplated in section 3(b) of the Determination of Types of Municipality Act, 2000 (Act No.1 of 2000).

The structure of the Municipality consists of a political office and administrative structure.

##### **2.1 Political Structure**

The political structure comprises of the Council which appointed members to serve in three Section 80 Committees and Mayoral Committee which is a principal Committee. The Council is chaired by the Speaker; the Mayoral Committee by the Executive Mayor and the Section 80 Committees are headed by the Section 80 Committees Chairpersons who constitute Mayoral Committee.

### **2.1.1 The Executive Mayor**

The Executive Mayor is responsible for political supervision of, and in consultation with the Municipal Manager, for the accountability of the administration. He/she is also responsible for interacting with the community on matters that affect them, particularly on compilation of Integrated Development Plan (IDP) and Annual Budget.

He/she presides over the meetings of the Mayoral Committee which consists of Chairpersons of the Section 80 Committees and performs the duties and exercise the powers assigned to him/her in terms of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998) (hereafter “the Structures Act”), as well as those powers and functions delegated to him/her by the council.

### **2.1.2 The Speaker**

The Speaker presides over the meetings of the Council and performs the duties and exercises the powers referred to in the Structures Act, including the powers and functions delegated to him/her by the council.

### **2.1.3 The Section 80 Committee and Mayoral Committee**

The Section 80 Committees process the items that are placed before them by the administration and forward them with recommendations to the Mayoral Committee.

The Mayoral Committee processes these items further and sends them to Council with recommendations.

## **2.2 Administrative Structure**

The administrative structure is composed of four directorates, namely, Office of the Municipal Manager, Corporate Services, Planning and Social Development and Budget and Treasury a

### **2.2.1 Office of the Municipal Manager**

The office of the Municipal is responsible for the overall administration of the institution. However, the following specific responsibilities are located within the office of the Municipal Manager:

- Performance Management System
- Communication
- Intergovernmental Relations
- Internal Audit
- Risk Management

### **2.2.1 Department of Corporate Services**

The Department of Corporate Services performs the for the following functions:

- Corporate Management Support
- Committee Services
- Records Management
- Human Resources
- Human Resources Development
- Labour relations
- Customer relations
- Information Management and Technology
- Office of the Executive Mayor
- Office of the Speaker
- Fleet Management

### **2.2.3 Budget and Treasury Office**

This Department performs the following functions:

- Financial Management
- Revenue Enhancement
- Budget and Reporting
- Asset Management
- Support Services

### **2.2.4 Planning and Social Development**

This Department performs the following functions:

- Environmental Management
- Integrated Development and Planning
- Local Economic Development
- Rural Development
- Disaster Management
- Social Development

## **3. DESCRIPTION OF THE MUNICIPALITY'S FUNCTIONS**

The Municipality has all the powers and functions assigned to it in terms of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996) (hereafter "the Constitution") and in terms of other national and provincial legislations. It has legislative and executive authority in respect of such powers and functions.

The Municipality also has the right to do anything reasonably necessary for or incidental to the effective performance of its functions.

The core functions and powers of the Municipality include the following:

Local Economic Development  
Local Tourism  
Municipal Planning  
Environmental Health Services  
Disaster Management  
Municipal Public Works

The Municipal Council has the right to finance its affairs by charging fees for services rendered and rates on property as authorized by national legislation.

#### **4. THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION GUIDE (SEC. 10 OF THE ACT)**

The Human Rights Commission has compiled a guide containing such information as may reasonably be required by any person who wishes to exercise a right contemplated in the Promotion of Access to Information Act.

The South African Human Rights Commission can be contacted at the following address:

##### **Head Office**

Human Right Commission  
33 Hoofd Street  
Braampark Forum 3  
Braamfotein  
2017  
Tel: (011) 8773601  
Fax: (011) 4030625

##### **Regional Office (Free State)**

Human Rights Commission  
50 East Burger Street  
1<sup>st</sup> Floor TAB Building  
Bloemfotein  
9300  
Tel: (051) 4471130  
Fax: (051) 4471128

#### **5. DETAILS OF THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER.**

5.1 The contact details of the Information Officer of the Municipality are as follows:

Designation : Municipal Manager, TL Mkhwane  
Street address : 20 Louw Street, Trompsburg, 9913  
Postal Address : Private Bag X 136, Trompsburg, 9913  
Telephone Number : 051 - 7139304  
Fax Number : 051 - 7130461  
Electronic mail address : [skaza@xhariep.gov.za](mailto:skaza@xhariep.gov.za)

5.2 The contact details of the Deputy Information Officer of the Municipality are as follows:

Designation : Director: Corporate Services, MM Kubeka  
Street address : 20 Louw Street, Trompsburg  
Postal Address : Private Bag X 136, Trompsburg, 9913  
Telephone Number : 051 - 7139305  
Fax Number : 051 - 7130461  
Electronic mail address : [martyr@xhariep.gov.za](mailto:martyr@xhariep.gov.za)

## **6. PROCEDURE TO BE FOLLOWED REQUEST ACCESS TO RECORDS OF THE MUNICIPALITY**

6.1 If a member of the public wishes to make a request for access to a record of The Municipality in terms of the provision of the Information Act, a written request must be made to the Information Officer on the application form attached hereto as Annexure A.

A person who is illiterate or otherwise unable to make a request for access to a record because of a disability may make an oral request. The Information Officer must assist the requester by putting the request to writing. The Information Officer must also assist a person who requires reasonable assistance free of charge.

The language in which the requester wishes to obtain the record must be stated by the requester. If the record is not available in the language preferred by the requester, access may be granted in the language in which the record is available.

The application should provide sufficient information to enable the Information Officer to:

- identify the records requested (including a description of the record, a reference number and any further particulars on the record); and
- identify the requester, including all contact information.

The information should also enable the Information Officer to identify the form of access required by the requester, for instance:

- whether the requester wishes to make a copy of a written or printed record

- or inspect the record,
  - whether the requester wishes to view or copy visual images which may be photographs, slides, video recordings, computer generated images or sketches or obtain a transcription of the images;
  - whether the requester wishes to listen to a soundtrack or obtain a written or printed transcription of the soundtrack.;
  - whether the requester wishes to obtain a printed copy of a computer or an electronic or machine readable derived from the aforesaid.
- 6.2 The application form must be accompanied by the prescribed search fee listed in Annexure C of this manual. A person who is seeking information about himself or herself does not have to pay the initial fee, while a requestor other than a personal requester has to pay an initial fee of R 35-00 for a record. All requesters, except those who are exempted in terms of section 22 (8) (a) of the Information Act, must pay the required fees to obtain a record.

The requester will be given the required information, if available, within a reasonable time after receipt of the application form and prescribed fee.

The Information Officer may transfer a request where a record is not under the control or in the possession of the Municipality or where the subject matter is more closely connected with the functions of another public body or where the record contains commercial information in which another public body has a greater interest. The request will be transferred as soon as reasonably possible, but in any event within 14 days after the request is received. The Information Officer must notify the requester of the transfer as well as the reasons for the transfer and the period within which the request must be addressed.

If information is no longer available or cannot be found and all reasonable steps have been taken to find such a record, the Information Officer must, by way of an affidavit of affirmation notify the requester accordingly. Access may be deferred where a record is not yet available. The requester will be notified accordingly.

The Information Officer must decide within 30 days whether to grant the request. If the request is granted, a notice shall be send to the requester stating the following:

- that the access fee, if any, must be paid upon being granted access;
- the form in which access will be given; and
- that the requester may lodge an internal appeal with the Municipality or an application with a court against the access fee to be paid or the form in which access is to be granted.

If the request is not granted, the notice by the Information Officer must give adequate reasons for the refusal, excluding any reference to the content of the record and stating that the requester may lodge an internal appeal with the Municipality or application with a court against the refusal of the request and the procedure to lodge an internal appeal or application.

The Information Officer may extend the period of 30 days in which to decide on the request if:

- it is for a large number of records and compliance would unreasonably interfere with the activities of the Municipality; consultations with other departments of the Municipality or with another public body are necessary or desirable and the Information Officer cannot be reasonably be expected to complete the consultations within the initial 30 days; or
- the requester consents in writing to the extension.

If a period is extended, the Information Officer must within 30 days after the request is received, notify the requester of that extension and the reasons. The notice must state the period of extension as well as adequate reasons for the extensions. The notice must also state that the requester may lodge an internal appeal with the Municipality or an application with a court against the extension and the procedure (including the period) for lodging the application. The notice must also provide information on the procedure to be followed to lodge such an appeal or application.

## **7. DISCRETIONARY REFUSAL OF ACCESS TO RECORDS**

The Information Officer has the discretion to refuse access of records where a request for access to information would involve disclosure of:

- (a) information supplied in confidence by a third party, the disclosure of which could reasonably be expected to cause prejudice;
- (b) information, the disclosure of which would be likely to impair the security of a building, structure or system, which may be a computer system, means of transport or any other property;
- (c) information regarding methods, systems, plans or procedures for the protection of an individual in a witness protection scheme, the safety of the public or the security of property;
- (d) a record containing the methods, techniques or guidelines for the prevention, detection, curtailment or investigation of a contravention or possible contravention of law or prosecution of an alleged offender;
- (e) a record on the prosecution of an alleged offender where disclosure of the record could reasonably be expected to impede the prosecution or result in a miscarriage of justice;
- (f) a record, the disclosure of which could reasonably be expected to:
  - prejudice the investigation of a contravention or possible contravention of the law;
  - reveal or enable a person to identify a confidential source of information related to the enforcement or administration of the law;
  - result in the intimidation or coercion of a witness or a person who may be called as a witness in criminal or other proceedings to enforce the law;
  - a contravention of the law; or



- prejudice or impair the fairness of a trial or the impartiality of adjudication.
- (g) information, the disclosure of which could cause prejudice to the defense, security of international relations of the Republic of South Africa;
- (h) information, the disclosure of which is likely to materially jeopardize the economic or financial interests of the Republic of South Africa or the ability of the government to manage the economy of the Republic of South Africa effectively;
- (i) information, which contains trade secrets of the state or a public body or could put a public body at a disadvantage in a contractual or other relations or prejudice a public body in commercial competition information which contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the state or a public body;
- (j) information which is a computer program, defined in the Copyright Act, 1978 (Act No 98 of 1978), owned by the state or a public body;
- (k) information about research being carried out or likely to be carried out by or on behalf of a third party, the disclosure of which would be likely to serious disadvantage a public body, person carrying out the research or subject matter of the research

## **8. MANDATORY REFUSAL OF A REQUEST FOR ACCESS TO RECORD**

The Information Officer must refuse access to a record where a request for access to information would involve the unreasonable disclosure of personal information or trade secrets about a third party (including a deceased individual) or any information, other than trade secrets, that can cause harm to the commercial or financial interests of a third party.

Access must also be refused where a request for access to information would involve disclosure of information which is a computer program owned by a private body or where access to the record is prohibited in terms of Section 60 (14) of the Criminal Procedure Act, 1977 (Act No 51 of 1977) or where the information is privileged or where the information can endanger the life or safety of an individual or the protection of property.

The Information Officer must refuse access to a record where the information would involve the disclosure of information supplied in confidence by a third party and it can reasonably be expected to put the third party at a disadvantage in contractual or other negotiations. Where the information would be a breach of duty of a confidence owed to a third party or where the disclosure of information about research would expose the person or third party carrying out the research or the subject matter of the research causing serious disadvantage, access must be refused.

The Information Officer may refuse a request for access to a record if the request is manifestly frivolous or vexatious or the work involved in processing the request would substantially and unreasonably divert the resources of the Municipality.

## **9. INTERNAL APPEAL AGAINST DECISION OF INFORMATION OFFICER**

If the Information Officer fails to give a decision on a request for access within 30 days or any extended period, the Information Officer is deemed to have refused the request and the requestor may lodge an internal appeal. An internal appeal must be lodged on the prescribed form as set out in Annexure B within 60 days in terms of the provisions of section 75(1)(a)(i) of the Information Act.

A requester may lodge an internal appeal against a refusal of a request or a decision of the Information Officer with respect to the prescribed fees, or the form of access;

A third party may lodge an internal appeal with the Municipality in terms of Section 72(c) of the Information Act against a decision by the Information Officer to disclose information.

A requester who has lodged an internal appeal and is not satisfied with the result may make an application for appropriate relief to a court, in terms of section 78 of the Information Act within 30 days of the decision on the internal appeal. A requester may not make an application to a court unless the requester has exhausted the prescribed internal appeal procedure.

## **10. PROCEDURE FOR AN INTERNAL APPEAL AND APPEAL FEES**

An internal appeal must be lodged on the prescribed form within a period of 60 days. If a notice to a third party is required, such notice must be given within 30 days after an internal appeal was lodged. It must be posted, faxed or sent by electronic mail to the Information Officer.

The subject matter of the appeal must be identified and the reasons for the appeal must be stated. If in addition to a written reply, the appellant wishes to be informed of the decision of the internal appeal in any other manner, he or she must state that manner and provide the necessary particulars to be so informed.

If applicable the prescribed appeal fee must accompany the form. Late appeals, upon good cause shown, can be allowed.

An internal appeal shall be dealt with by the Speaker of the Municipality in accordance with the provisions of section 74 to 77 of the Information Act.

## **11. COMMENCEMENT**

This Manual will implemented with effect from the 1<sup>st</sup> January 2012.

**ANNEXURE A**

**REQUEST FOR ACCESS TO RECORDS OF THE XHARIEP DISTRICT MUNICIPALITY**

(As contemplated in Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000).

**A. PARTICULARS OF PERSON REQUESTING ACCESS TO RECORD**

- (a) The particulars of the person who requests access to the record must be given below.
- (b) The address and/or fax number in the Republic to which the information is to be sent, must be given.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: .....

Postal address: .....  
.....

Home telephone No. .... Work telephone No. ....

Mobile phone number: ..... Fax number: .....

E-mail address ..... Identity number: .....

**B. 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.

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

Full names and surname on whose behalf request is made:  
.....

Identity number: ..... Home telephone ..... ..

Work telephone No. .... Mobile No .....

**C. PARTICULARS OF PUBLIC BODY**

Name of Municipality: **Xhariep District Municipality**

Name of Information Officer: Mr TL Mkhwane, Municipal Manager

**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 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.
- (c) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:  
.....  
.....  
.....  
.....

**F. FORM OF ACCESS TO RECORD REQUIRED**

|  |   |  |   |   |  |
|--|---|--|---|---|--|
| <p>If you are prevented by a disability to read view or listen to the record in the form of access provided in 1 – 4 below state your disability and indicate in which form the record is required.</p>  |   |  |   |   |  |
| <p>Disability</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>  | <p>Form in which record is required</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> |  |   |   |  |
| <p>*Please mark the appropriate box with an X.</p> <p>(a) Compliance with your request for access in the specified form may depend 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 requested.</p> |   |  |   |   |  |
| <p>1. If the record is in written or printed form:</p>   |   |  |   |   |  |
| <p>Copy of record*</p>   |   | <p>Inspection of records *</p>                           |   |   |  |
| <p>2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc:</p>  |   |  |   |   |  |
| <p>view the image s *</p>  |   | <p>Copy of the Images*</p>                               |   | <p>transcription of the images*</p>                                   |  |
| <p>3. If record consists of recorded words or information which can be reproduced in sound:</p>  |   |  |   |   |  |
| <p>Listen to the soundtrack(audio cassette) *</p>  |   |  | <p>transcription of soundtrack* (written or printed document)</p> |   |  |
| <p>4. If record is held on computer or in an electronic or machine-readable form:</p>  |   |  |   |   |  |
| <p>printed copy of record'*</p>  |   | <p>printed copy information derived from the record*</p> |   | <p>copy in computer readable form* (memory stick or compact disc)</p> |  |

|  |     |    |
|--|-----|----|
| *If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?<br>Postage is payable.           | yes | No |
| Note that <i>if</i> the record is not available in the language you prefer, access may be granted in the language in <i>which</i> the record is available. |     |    |
| In which language would you prefer the record?   |     |    |

**Signed by:**

\_\_\_\_\_  
**TL MKHWANE**  
**MUNICIPAL MANAGER**

\_\_\_\_\_  
**DATE**

**G. NOTICE OF DECISION REGARDING REQUEST FOR ACCESS**

You will be notified 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.

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

.....  
.....  
.....  
.....

Signed at .....on this .....day of.....2011.

**SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE**

|   |
|---|
| FOR OFFICIAL USE  |
| Reference number: .....   |
| 1.Receipt of Request  |
| Request received by .....   |
| (State rank ,name and surname of information officer) on .....                |
| (date) at .....(place)  |
| 2. Fees paid  |
| Request fee (if any): R.....  |
| Deposit (if any): R .....   |
| Access fee: R.....  |
| 3.Decision on Request   |
| Request is <b>*APPROVED/DISAPPROVED</b> , subject to the following conditions |
| (if any)  |
| .....   |
| .....   |
| .....   |
| .....   |
| .....   |
| (*Delete whichever is not applicable)   |
| .....   |
| TL MKHWANE  |
| INFORMATION OFFICER   |
| DATE .....  |

**ANNEXURE B**

**NOTICE OF INTERNAL APPEAL**

(As contemplated in Section 75 of the Promotion of Access to Information Act 2000  
(Act No. 2 of 2000)

**A. PARTICULARS OF PUBLIC BODY**

Name of Municipality: **Xhariep District Municipality**

Name of Information Officer: Mr TL Mkhwane, Municipal Manager

**B. PARTICULARS OF APPELLANT /THIRD PARTY WHO LODGES THE INTERNAL APPEAL**

- (a) The particulars of the person who lodge the internal appeal must be given below.
- b) Proof of the capacity in which appeal is lodged, if applicable, must be attached.
- c) If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.

Full names and surname:

.....  
Identity number: ..... Home telephone .....  
Work telephone ..... Mobile phone No. ....  
Postal address: .....  
.....  
E-mail address: .....

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

.....

**C. PARTICULARS OF ORIGINAL REQUESTER**

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

Full names and surname:

.....  
Identity number: ..... Home telephone No. ....  
Work telephone No. .... Mobile phone No. ....  
Postal address: .....  
.....  
E-mail address: .....



**D. THE DECISION AGAINST WHICH THE INTERNAL APPEAL IS LODGED**

|   |   |
|---|---|
| Mark the decision against which the internal appeal is lodged with an X in the appropriate box: |   |
|   | Refusal of request for <i>access</i>  |
|   | <i>Decision</i> 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   |
|   | Decision in terms of section 29(3) of the Act to refuse access in the form requested by |
|   | 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 the 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.

Manner of Notification:

.....  
.....

Particulars: .....

Signed at.....on this .....day of ..... 2011.

.....  
SIGNATURE OF APPELLANT

FOR OFFICIAL USE:

**OFFICIAL RECORD OF INTERNAL APPEAL**

1 Appeal received by.....  
(State rank, name and Surname of Information Officer) on .....

2. The notice of appeal accompanied by the reasons for the information officer's decision and ,where applicable, the particulars of any third party to whom or which the record relates was submitted to the Speaker on .....for consideration.

**3. OUTCOME OF APPEAL:**

\*The decision of the Information Officer is confirmed /the decision is substituted by:

**NEW DECISION:**

.....  
.....  
.....  
.....  
.....  
.....

SPEAKER

DATE

**RECEIPT OF APPEAL OUTCOME**

This document containing the decision of the Speaker was received by the Information Officer on ..... (Date)

\_\_\_\_\_  
TL MKHWANE  
INFORMATION OFFICER

DATE .....