

MUNICIPAL DEMARCATION BOARD
PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (NO 2 OF 2000)

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1. DEFINITIONS AND INTERPRETATIONS

- a. **“Access Fee”** shall mean a fee prescribed for the purposes of section 22(6) or 54 (6) of Promotion of Access to Information Act no 2 of 2000, as the case maybe.
- b. **“Board”** refers to members of the Municipal Demarcation Board established by Chapter 1, Part 1 of the MDA.
- c. **“Chairperson”** shall mean the Chairperson of the Board
- d. **“Constitution”** shall mean the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).
- e. **“Deputy Information Officer”** shall mean the Executive Manager: Corporate Services or the person who is appointed as Acting Executive Manager: Corporate Services.
- f. **“Human Rights Commission”** shall mean the South African Human Rights Commission referred to in section 181 (1) (b) of the Constitution of Republic of South Africa.
- g. **“IEC”** shall mean Independent Electoral Commission,
- h. **“Information Officer”** shall mean the Chief Executive Officer or the person who is appointed as Acting Chief Executive Officer.
- i. **“MDB”** shall mean the Municipal Demarcation Board i.e. the organisation established in terms of section 2 of the Municipal Demarcation Act (Act No. 27 of 1998).
- j. **“Municipal Demarcation Act”** shall mean the Local Government: Municipal Demarcation Act 27 of 1998,
- k. **“Person and/or Third party”** shall mean a natural person or a juristic person,

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- l. **“Personal Information”** shall mean information about and identifiable individual,
- m. **“Personal requester”** shall mean a requester seeking access to a record containing personal information about the requester.
- n. **“Promotion of Access to Information Act, No. 2 of 2000”** hereafter referred to **“PAIA”** gives 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 required for the exercise or protection of any rights,
- o. **“Public Body”** shall mean any department State or administration in the National or Provincial Sphere of Government or any municipality in Local sphere of Government, or (b) any other functionary or institution when exercising a power or performing a duty in terms of the Constitution or provincial Constitution.

2. INTRODUCTION

Section 32 of the Constitution stipulates that everyone has the right of access to any information held by the State, or any other person provided the information is required for the exercise or protection of any rights.

Section 9 of Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) recognises that such right to access to information is subject to certain justifiable limitations including, but not restricted to:

- The reasonable protection of privacy;
- Commercial confidentiality; and
- Effective, efficient and good governance.

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Section 14 of PAIA obliges public bodies to compile a Manual, which would assist a person to obtain access to information held by the public body. The Act also stipulates the minimum requirements with which such a manual has to comply.

The purpose of this manual is to give effect to the provisions of section 14 of PAIA by informing the applicant on how to access the records held by the MDB. The manual provides an overview of records held by MDB and the processes that needs to be adopted to access such records. All requests for access to information (other than the information freely available to the public) should be directed to the Information Officer.

3. FUNCTIONS AND STRUCTURE OF THE MUNICIPAL DEMARACTION BOARD

3.1 Overview of the MDB

The Board's mandate derives from:

a. The Constitution of the Republic of South Africa, 1996

- Section 155 (3) of the Constitution states that the National legislation must establish criteria and procedures for the determination of municipal boundaries by an independent authority.
- Section 157(4) of the Constitution states that if an electoral system includes ward representation, the delimitation of ward s must be done by an independent authority appointed in terms of, and operating according to, procedures and criteria prescribed by legislation.

b. Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998)

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- Section 2 of the Municipal Demarcation Act establishes the MDB.
- Section 3 provides that the MDB is a juristic person, is independent and must be impartial and must perform its function without fear, favour or prejudice.
- Section 4 provides that the MDB must determine municipal boundaries in accordance with this Act and other appropriate legislation enacted in terms of Chapter 7 of the Constitution and must render an advisory service in respect of matters provided for in the Municipal Demarcation Act and other appropriate legislation.

c. Local Government: Municipal Structures Act, 1998 (Act 108 of 1998)

- In terms of (item 2) Schedule 1 of the Municipal Structures Act, the MDB after consultation with the Independent Electoral Commission for purposes of an election must delimit all municipalities that must have wards into wards.
- Section 85 provides that the MDB must consider the capacity of District and Local municipalities to perform their function and to exercise their powers and provide advice to MEC's responsible for Local Government.

d. Cabinet Resolutions

- In 1998 Cabinet resolved that departmental service delivery boundaries must be aligned to constitutional boundaries (National, Provincial and Local) and should be finalised by departments in consultation with the MDB.

e. Vision

- Spatially transformed, just and sustainable communities.

f. Mission

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- To create spatial conditions for sustainable development and transformation of local communities through municipal and ward boundary demarcation; provide advisory services, and serve as a knowledge hub for stakeholders to promote socioeconomic development, democratic participation, equality and access to services.

g. Values

- Impartiality, Transparency, Excellence, Inclusivity, and Integrity

h. Key Stakeholders

- The people of South Africa
- National Sphere of Government
- Provincial Sphere of Government
- Local Sphere of Government
- Organised Local Government
- Houses of Traditional Leaders
- National Assembly
- National Council of Provinces
- Magistrate
- Board Employees; and
- The Independent Electoral Commission

i. Institutional arrangements of the Municipal Demarcation Board

The Municipal Demarcation Board is led by the Chairperson and discharges its duties through the following committees:

- **Governance, Social and Ethics Committee** – Oversees the strategic and operational activities of the MDB as implemented by management on a day-to-day basis. Review the Board's Corporate Governance Guidelines and related documents annually. To

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consider and recommend to the Board policies relating to matters of transversal nature. To monitor the work programme of the MDB, considers and recommends the MDB.

- **Human Capital Committee** – Focuses on matters of organisational design and the entire human resources value chain, and further provide for the management, leadership, and administration of the department.
- **Audit and Risk and ICT Committee** – This committee is established to review issues such as: - the financial reporting process; the system of internal controls; management of financial and business risks; the internal and external audit process.
- **Ward Delimitation and Boundary Determination Committee** – The committee deals with an overall work programme in the following areas: - boundary categorisation; re-determinations; technical alignment of boundaries; alignment of service delivery and municipal boundaries; study into district management areas (DMA's) national parks and world heritage sites, and around powers and functions.
- **Research and Knowledge Management Committee** – Provides specialized support services to the Board in the areas of research and policy formulation, monitoring and evaluation.
- **Finance Committee** – Provides oversight with respect to financial governance, including financial management accounting, strategies and policies relating to and financial performance of the Board.

j. The Administration led by the Accounting Officer/CEO

The MDB is has four programmes namely:

- Administration
- Demarcation and Spatial Transformation Excellence

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- Research, Spatial Information and Intelligence Development; and
- Stakeholder Engagement and communications.

4. CONTACT DETAILS:

4.1 Information Officer

CHIEF EXECUTIVE OFFICER	PHONE	ADDRESS	EMAIL
Mr. Manye Moroka	012 342 2481	Eco Origins Office Park Block C1 349 Witch-hazel Avenue Highveld	Manye@demarcation.org.za

4.2 Deputy Information Officer

EM: CORPORATE SERVICES	PHONE	ADDRESS	EMAIL
Ms. Nono Bapela	012 342 2481	Eco Origins Office Park Block C1 349 Witch-hazel Avenue Highveld	Nono@demarcation.org.za

5. CATEGORIES OF RECORDS HELD BY MDB

- Capacity Assessments reports of Municipalities,
- Reports on Delimitation of wards,

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- Reports on Determination of wards,
- Agendas and minutes of executive and management committee meetings,

6. RECORDS AUTOMATICALLY AVAILABLE

MDB publishes a broad range of informative material both in print and on its website at www.demarcation.org.za.

7. REQUEST PROCEDURE

The steps below have been designed to ensure that requests for access to records of information held by the MDB is dealt with as quickly and efficiently as possible.

7.1 Completing the request form

To request information, the requester must fill in Form A which must be accompanied by the requester's proof of payment, which is attached as Annexure 1 to this manual. The request must be sent to the contact details listed in paragraph 4 of this manual. The Information Officer or Deputy Information Officer shall in terms of Sec 14 of PAIA, reply within 30 days to inform the requester whether the request has been granted or refused. Access to records will be granted in the format requested or in the format that the record exist, if the requested format is not available.

7.2 Fees

- a. In certain circumstances the requester will be required to pay a non-refundable fee before the request is considered or the records requested are made available. The MDB will only continue processing the request after a deposit has been paid.

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b. For the purposes of section 22(2) of PAIA, the following rates apply:

DESCRIPTION	AMOUNT
The request fee payable by every requester, other than a personal requester referred to in section 22(1) of the Act	R50.00
For every copy of an A4 page or part thereof	R0.60
For every printed copy of an A4 page or part thereof held on a computer or on electronic device or machine	R0.40
For a copy in a computer readable form on a. Compact disc (readable form)	R40.00
For transcription of visual images a. For an A4 page or part thereof b. For a copy of visual images	R22.00 R60.00
For transcription of an audio record a. For an A4 page or part thereof b. For a copy of the audio record	R12.00 R17.00
To search for the record for disclosure for each hour or part thereof of an hour, excluding the first hour, reasonably required for such search and preparation	R30.00/h
The actual postage. Postage cost is dependent on the relevant tariff in terms of postage destination	Actual cost

- c. For the purposes of section 22(2) of PAIA, the following applies:
- i. Six hours as the hours to be exceeded before a deposit is payable.
 - ii. One third of the access fee is payable as a deposit by the requester.
- d. The actual postage is payable when a copy of a record must be posted to a requester exemption from paying "access fees".
- e. Person or persons exempted from paying access fee:
- i. A single person whose annual income does not exceed R14,712.00 or

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- ii. Married persons or a person and his/her life partner whose annual income does not exceed R27,192.00
- f. The appeal payable in respect of the lodging of an internal appeal by a requester against the refusal of his/her request for access as contemplated in section 75(3)(a) of the act is R50.00

g. Banking Details

Account Name: Municipal Demarcation Board
Bank : ABSA
Account Type: Cheque Account
Account No : 4048673079
Branch Code: 334945
Reference : PAIA Request

7.3 Taking a decision on a request

- a. The Information Officer or the Deputy Information Officer is required to make a decision on a request within 30 days of receipt of the request unless the requester has stated special reasons, which would satisfy the Information Officer or the Deputy Information Officer, that circumstances dictate that the above time periods not be complied.
- b. The 30-day period may be extended for a further period of not more than 30 days if the request is for large number of information, and the information cannot reasonably be obtained within the original 30-day period. The Information Officer or the Deputy Information Officer will notify the requester in writing should an extension be sought.
- c. The requestor will be given access to record of information if-

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- h. The requestor has complied with all procedural requirements in the Act relating to the request for access to that record, that is-
- The request is properly made on the prescribed form,
 - The requestor has furnished proof of authority to act on another's behalf, if a request is not made on own behalf,
 - The record requested is sufficiently described to enable the Deputy Information Officer or the Information Officer to identify it.
 - If the required fees have been paid.
- i. If a request for access to a record has been granted, the requestor shall pay an access fee for reproduction and for search and preparation, and for any time reasonable required in excess of the prescribed hours to search for and prepare the record for disclosure, including making arrangement to make it available in the requested form.
- j. If a deposit has been paid in request for access, which is refused, then the Information Officer or Deputy Information Officer must repay the deposit to the requester.

8. REFUSAL OF REQUESTS

The main grounds on which a request for information may be refused relate to:

- a. The mandatory protection of the privacy of a third party who is a natural person, if the request entails the unreasonable disclosure of personal information regarding that third party, However, a record may not be refused if it consists of information:
- About a third party who has consented in writing to the disclosure of the information, that is already publicly available.

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- b. Mandatory protection of the commercial information of a third party, if the record contains: trade secrets of that third party, financial, commercial, scientific, or commercial interests of that third party, However, a record may not be refused if it consists of information:
- Already publicly available,
 - About a third party who has consented in writing to its disclosure to the requester concerned.
- c. Information disclosed in confidence by a third party to the MDB, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition,
- d. Mandatory protection of confidential information of third parties if it is protected in terms of any agreement,
- e. Mandatory protection of the safety of individuals and the protection of property,
- f. Mandatory protection of records which would be regarded as privileged in legal proceedings.
- g. The commercial activities of the MDB, which may include trade secrets of the MDB's financial, commercial, scientific or technical information, disclosure of which is likely to cause harm to the financial or commercial interests of the MDB and information which, if disclosed could put the MDB at a disadvantage in negotiations or commercial competition, however, a record may be refused if the record consists of information that is already publicly available.
- h. A computer programme which is owned by the MDB, and which is protected by copyright.
- i. The research information of the MDB or a third party, if it entails the disclosure of the identity of the Board, the researcher, or the subject matter of the research and as a result place the research at a serious disadvantage.
- j. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

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9. Appeal

9.1 A requester may lodge an internal appeal against a decision of the Information Officer to the relevant committee of the Board:

- a) To refuse a request for access.
- b) Regarding the request fee, a deposit on the access fee, or the access fee
- c) Regarding the extension for the period to deal with the request,
- d) Regarding access being granted in a different form than requested.

9.2 Manner of appeal

- a. An appeal must be lodged in the prescribed form (see Form B) within
 - (i) 60 days, if notice to a third party is required,
 - (ii) 30 days after notice is given to the appellant of the decision appealed against, or
 - (iii) if the notice to the appellant is not required, after the decision was taken.
- b. The notice of appeal must be delivered or sent to the Information Officer of the MDB at his/her address, or electronic mail address,
- c. It must identify the subject of the appeal and state the reasons for the appeal and may include any relevant information known to the appellant,
- d. If, in addition to a written reply, the appellant wishes to be informed of the decision on the internal appeal in any other manner, must state that manner and provide the necessary particulars to be so informed,
- e. Where applicable, the appeal must be accompanied by the prescribed appeal fee and must specify a postal address or fax number. If an appeal is lodged after the expiry of the period, the Information Officer or the

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Deputy Information Officer, must upon good cause shown, allow the late lodging of the appeal. If the Information Officer or the Deputy Information Officer disallows the late lodging of the appeal, he or she must give notice of that decision to the person who lodged the appeal.

- f. A requester lodging an appeal against the refusal of his or her request for access must pay the prescribed appeal fee (if any). If the prescribed appeal fee is payable in respect of an appeal, the decision on the appeal may be deferred until the fee is paid, and;
- g. As soon as reasonably possible, but in any event within 10 working days, after receipt of an appeal, the Information Officer of the MDB must submit the appeal to the Chairperson/relevant committee together with his or her reasons for the decisions concerned, and the appeal is against the refusal or granting of a request for access, the name, postal address, phone and email address, which ever is available, of any third party must be notified of the request.

10. Guide on how to use PAIA

Section 10 of PAIA stipulates that the South African Human Rights Commission must compile a guide on how to use the Act. For any enquiries regarding this guide should be directed to:

The Information Regulator, South Africa

JD House

27 Sentimens Street

Braamfontein

Johannesburg

20001

General Enquiries emails: infoereg@justice.gov.za

Website: www.justice.gov.za

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The South African Human Rights Commission: PAIA Unit

The Research and Documentation Department

Private Bag X2700

Houghton

2041

Telephone: 011 484 8300

Fax: 011 484 1360

E-mail Address: PAIA@sahrc.org.za

Website: www.sahrc.org.za

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FORM A

REQUEST FOR ACCESS TO RECORDS OF PUBLIC BODY

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

[Regulation 6]

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

.....

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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 given below.*
 - b. Furnish an address and/or fax number in the Republic to which 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:

Identity number:

Postal address:

Telephone number: Cell number:

Email address:

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

.....

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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 the record or relevant part of the record : -----

2. Reference number, if available : -----

3. Any further particulars of record : -----

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E. Fees

- | |
|---|
| <p>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.</p> <p>b. You will be notified of the amount required to be paid as the request fee.</p> <p>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.</p> <p>d. If you qualify for exemption of the payment of any fee, please state the reason therefore.</p> |
|---|

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.

<p>Disability:</p> <p>_____</p>	<p>Form in which record is required:</p> <p>_____</p>
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Mark the appropriate box with an "X".

NOTES:

- a. Your indication as to the required form of access depends on the form in which the record is available.
- 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.
- c. The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:

	Copy of record *		Inspection of record
--	------------------	--	----------------------

2. If record consists of visual images:

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

	view the images		copy of the images*		transcription of the images*
--	-----------------	--	---------------------	--	------------------------------

3. If record consists of recorded words or information which can be reproduced in sound:

	listen to the soundtrack (audio cassette)		transcription of soundtrack * (written or printed document)
--	---	--	--

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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)
--	--------------------------	--	---	--	--

<p>*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted or couriered to you? A postage fee is payable.</p>	YES	NO
--	-----	----

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.

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.

Please provide reasons for the purpose and use of the Information Requested:

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

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Signed at ----- this day ----- of -----

SIGNATURE OF REQUESTER / PERSON ON

WHOSE BEHALF REQUEST IS MADE

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FORM B

NOTICE OF INTERNAL APPEAL

(Section 75 of the Promotion of Access to Information Act 2000 (*Act 2 of 2000*))

(REGULATION 8)

A. Particulars of public body

The Information Officer/Deputy Information Officer:

B. Particulars of requester/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:

Telephone number: Fax number:

Email address:

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

.....

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C. Particulars of 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: -----

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 access
	Decision regarding fees prescribed in terms of section 22 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:

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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.

State the manner: -----

Particulars of manner: -----

Signed on this ----- day of -----

SIGNATURE OF APPELLANT

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FOR DEPARTMENTAL USE:

OFFICIAL RECORD OF INTERNAL APPEAL

Appeal received on ----- (date) by -----
(state rank, name and surname of information officer/ deputy information officer).

Appeal accompanied by the reasons for the information officer/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the records, submitted by the information officer/deputy information officer on (date) to the Chairperson of the Board.

OUTCOME OF APPEAL:

Decision of the information officer/deputy information officer

CONFIRMED/NEW DECISION SUBSTITUTED

NEW DECISION: -----

DATE (Chairperson): -----

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER
FROM THE CHAIRPERSON ON (date) -----