



MANUAL

Promotion of Access to Information Act, 2 of 2000 (as amended)

&

Protection of Personal Information Act, 4 of 2013

This document was prepared and made available in accordance with Section 14 of PAIA and forms part of the responsibilities of the Information Officer in terms of Regulation 4 c) of the Regulations in relation to the Protection of Personal Information

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1. DEFINITIONS

In this guide unless the context requires otherwise –

“access fee” means a fee prescribed for the purposes of section 22 (6) or 54 (6), as the case may be;

“court” means –

(a) the Constitutional Court acting in terms of section 167 (6) (a) of the Constitution of the Republic of South Africa, 1996; or

(b) (i) a High Court or another court of similar status; or

(ii) a Magistrate’s Court, either generally or in respect of a specified class of decisions in terms of PAIA, designated by the Minister; by notice in the Gazette and presided over by a magistrate or an additional magistrate designated in terms of section 91A of PAIA, within whose area of jurisdiction –

(aa) the decision of the Information Officer or relevant authority of a public body or the head of a private body has been taken;

(bb) the public body or private body concerned has its principal place of administration or business; or

(cc) the requester or third party concerned is domiciled or ordinarily resident;

“ULM” means the Umzimvubu Local Municipality;

“Municipality” means Umzimvubu Local Municipality;

“Guide” means the book produced by the Human Rights Commission in terms of section 10 of PAIA for the purposes of reasonably assisting a person who wishes to exercise any right in terms of PAIA;

“Human Rights Commission” means the South African Human Rights Commission referred to in section 181 (1) (b) of the Constitution;

“Information Officer”, in relation to ULM, means the Municipal Manager;

“Deputy Information Officers” means the officials duly authorised by the Information Officer to ensure that the requirements of PAIA are administered in a fair, objective and unbiased manner;

“official” in relation to a public body or private body means –

(a) any person in the employ (permanently or temporary and full time or part-time) of the public or private body, as the case may be, including the head of the body, in his or her capacity as such; or

(b) a member of the public or private body, in his or her capacity as such;

“PAIA” means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

“person” means a natural or a juristic person;

“personal requester” means a requester seeking access to a record containing personal information about the requester;

“private body” means –

(a) a natural person who carries or has carried on any trade, business or profession, but only in such capacity;

(b) a partnership which carries or has carried on any trade, business or profession; or

(c) any former or existing juristic person; but excludes a public body.

“public body” means –

(a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere; or

(b) any other functionary or institution when –

(i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any other legislation;

“record” means any recorded information –

(a) regardless of the form or medium;

(b) in the possession or under the control of that public or private body respectively; and

(c) whether or not it was created by that public or private body, respectively;

“Regulations in terms of the Promotion of Access to Information Act” means regulations regarding the promotion of access to information published in Government Notice No. R. 187 of 15 February 2002 (Government Gazette No. 23119), amended by Government Notice No. R. 1244 of 22 September 2003 (Government Gazette No.25411);

“Regulator” means the Information Regulator established in terms of section 39 of the POPI;

“relevant authority” in relation to records requested from ULM, means the Umzimvubu Local Municipality (the municipality);

“responsible party” means the Municipality;

“request for access” means a request for access to a record in terms of section 11 of PAIA;

“application” means an application to a court in terms of section 78;

“third party” means any person (including, but not limited, to the government of a foreign state, an

international organisation or an organ of that government or organisation) other than –

(a) the requester concerned; and

(b) a public body.

“working days” means any days other than Saturdays, Sundays or public holidays, as defined in

section 1 of the Public Holidays Act, 1994 (Act, No. 36 of 1994).

In this manual, words importing any one gender shall include the other gender, and the singular shall include the plural, unless the context indicates otherwise.

2. INTRODUCTION

The Promotion of Access to Information Act, 2 of 2000 (PAIA) gives effect to the public's right to information from the Public and Private Bodies as contained in section 32 of the Constitution of the Republic of South Africa and to advance and increasingly focus on the development of good corporate governance.

Taking into consideration:

That the right of access to any information held by Umzimvubu Local Municipality may be limited to an extent that the limitations are reasonable and justifiable in an open and democratic environment based on human dignity, equality and freedom as contemplated in section 36 of the Constitution and as specified in Chapter 4 of PAIA.

The Protection of Personal Information Act 4, of 2013 (POPIA) aims to promote the protection of personal information processed by the public and private bodies, to introduce certain conditions in relation to the processing of personal information and regulate the flow of personal information across the borders.

This manual has been compiled for Umzimvubu Local Municipality in line with the provisions of section 14 of the PAIA and of the Regulations relating to the Protection of Personal Information. This manual aims to give effect to the public's right of access to information held by ULM and the protection of personal information processed by the municipality.

Umzimvubu Local Municipality seeks to promote transparency, accountability, and effective governance. The manual aims to enable people to exercise their rights in terms of the applicable legislation, and to create an understanding of functions performed, records and/personal information kept and/processed by Umzimvubu Local Municipality.

Section 32(1)(a) of the Constitution of the Republic of South Africa, 1996, determines that everyone has a right of access to any information held by the State. Section 32(2) of the Constitution provides for the enactment of national legislation to give effect to this fundamental right. PAIA is the national legislation contemplated in section 32(2) of the Constitution. Section 14 of the Constitution of the Republic of South Africa, 1996, on the other hand provides for the right to privacy. POPI gives effect to the constitutional right to privacy provided in section 14 of the Constitution -

- (i) by safeguarding a person's personal information when processed by public and private bodies;
- (ii) in a manner which balances the right to privacy with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution, particularly the right to access to information; and
- (iii) subject to justifiable limitations, including, but not limited to effective, efficient and good governance and the free flow of personal information, particularly trans-border transfers.

Section 9 of PAIA recognises that the right of access to information is subject to certain justifiable limitations aimed at, amongst others:

- (a) the reasonable protection of privacy;
- (b) commercial confidentiality; and
- (c) effective, efficient and good governance.

Section 55(2) of POPI requires the municipality to register its Information Officer with the Regulator before taking up his or her respective duties in terms of the Protection of Personal Information Act,

2013 (Act No. 4 of 2013) and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

Section 14(1) of PAIA stipulates that the Information Officer of the Public body must compile a manual in at least three official languages containing information on the Public Body for public consumption. Should this manual be translated into any other language and there is a conflict or inconsistency between the English version and the other languages, the English language text of the manual shall prevail. Regulation 4 (1) (c) of the POPI Regulations confirms the publication requirement of PAIA when it stipulates that “...a manual is developed, monitored, maintained and made available as prescribed in sections 14 and 15 of PAIA.” The requirement for a manual is then extended to include POPI requirements when section 17 of POPI provides that a “...responsible party must maintain the documentation of all processing operations under its responsibility as referred to in section 14 or 51 of the Promotion of Access to Information Act”.

The purpose of this manual is to ensure that Umzimvubu Local Municipality (the public body in terms of PAIA and POPIA) complies with the requirements of both PAIA and POPIA.

3. PARTICULARS IN TERMS OF SECTION 14 OF PAIA

3.1 PURPOSE OF PAIA MANUAL

This PAIA Manual is useful for the public to-

3.1.1 check the nature of the records which may already be available at Umzimvubu Local Municipality, without the need for submitting a formal PAIA request;

3.1.2 have an understanding of how to make a request for access to a record of the Umzimvubu Local Municipality);

3.1.3 access all the relevant contact details of the persons who will assist the public with the records they intend to access;

3.1.4 know all the remedies available from the Umzimvubu Local Municipality regarding request for access to the records, before approaching the Regulator or the Courts;

3.1.5 describe the services available to members of the public from the Umzimvubu Local Municipality, and how to gain access to those services;

3.1.6 description of the guide on how to use PAIA, as updated by the Regulator and how to obtain access to it;

3.1.7 if the body will process personal information, the purpose of processing of personal information and the description of the categories of data subjects and of the information or categories of information relating thereto;

3.1.8 know if the Umzimvubu Local Municipality has planned to transfer or process personal information outside the Republic of South Africa and the recipients or categories of recipients to whom the personal information may be supplied; and

3.1.9 know whether the Umzimvubu Local Municipality has appropriate security measures to ensure the confidentiality, integrity and availability of the personal information which is to be processed.

4. ESTABLISHMENT OF THE UMZIMVUBU LOCAL MUNICIPALITY

Umzimvubu Local Municipality was established by the MEC responsible for Cooperative Governance and Traditional Affairs in the Eastern Cape, in terms of section 12 of the Local Government: Municipal Structures Act, 117 of 1998 as amended.

4.1. Objectives/Mandate

The mandate of Umzimvubu Local Municipality as per Section 152 (1) of the Constitution of the Republic of South Africa is to achieve the objects of local government:

- a) to provide democratic and accountable government for local communities;
- b) to ensure the provision of services to communities in a sustainable manner;
- c) to promote social and economic development;
- d) to promote a safe and healthy environment; and
- e) to encourage the involvement of communities and community organisations in the matters of local government.

4.2 Legislative Mandate

The municipality operates within the legislative framework which consists of various statutes, which inter alia include:

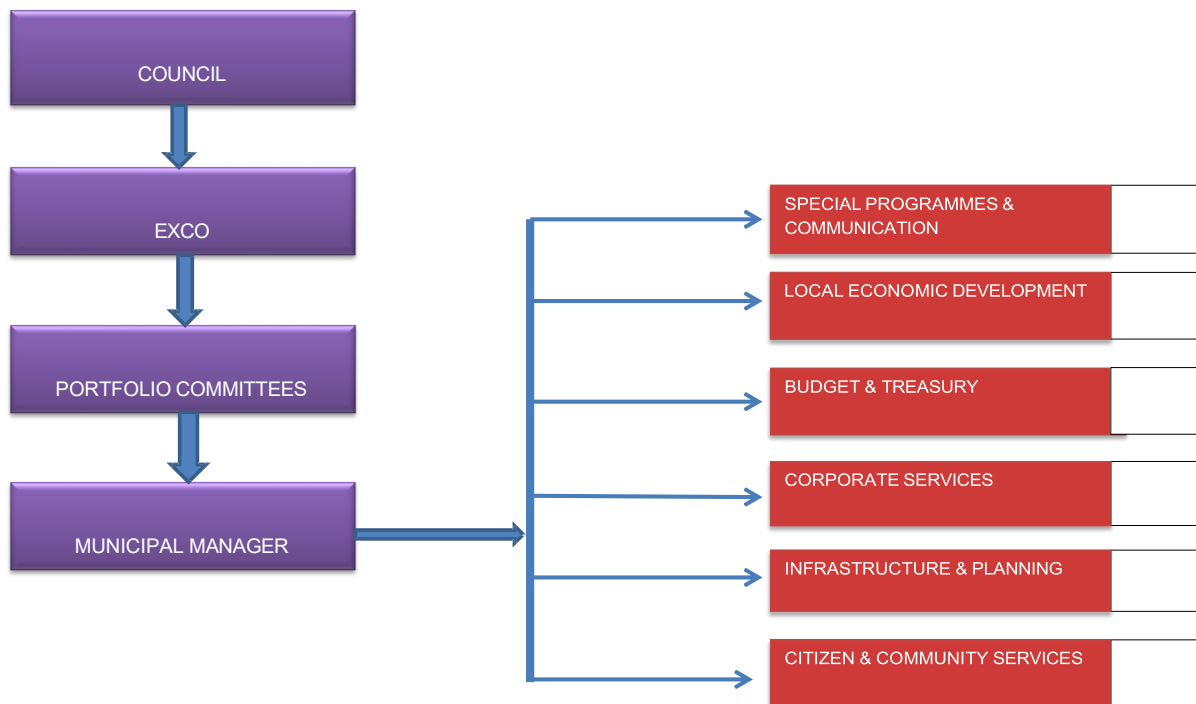
Legislation	Mandate
Municipal Demarcation Act, 27 of 1998	This act provides for the demarcation of municipal boundaries by the independent authority.
Municipal Structures Act, 117 of 1998	This act provides for: • the establishment of municipalities in accordance with the requirements relating to categories and types of municipalities. • an appropriate division of functions and powers between categories of municipalities. • regulation of internal systems, structures, and office bearers of municipalities.
Municipal Systems Act, 32 of 2000	This act provides for: • the core mechanisms and processes that are necessary for municipalities to move progressively towards social and economic upliftment of local communities. • defining the legal nature of the municipality. • municipal powers and functions. • provide for community participation
Municipal Finance Management Act, 56 of 2003	The act provides for: • securing sound and sustainable management of the financial affairs of municipalities and other institutions in the sphere of local government.

	establishing treasury norms and standards for the local sphere of government.
Municipal Property Rates Act, 6 of 2004 as amended by Act, 29 of 2014	The act provides for: - regulating the power of a municipality to impose property rates. - to make provision for municipalities to implement a transparent and fair system of exemptions. - introducing rebates through rating policies. - making provision for fair and equitable valuation methods of properties. - making provision for an objection and appeal process. The municipal Property Rates Amendment Act, 2014 aims to provide for various amendments insertions, and deletions in order to enhance proper reporting, compliance and implementation of the processes and procedures pertaining to the Act.
Disaster Management Act, 57 of 2002 Disaster Management Amendment Act, 16 of 2015	This act provides for: - integration and coordinating disaster management policy. - emergency preparedness, rapid and effective response to disasters and post disaster recovery. - the establishment of national, provincial, and municipal disaster centres. The amendment of the act provides for clarification of the policy focus on rehabilitation and functioning of disaster management centres.
Intergovernmental Relations Framework Act, 13 of 2005	The aim of this act: - is to establish a framework for national, provincial government and municipalities to promote and facilitate intergovernmental relationships. - To provide mechanisms and procedures to facilitate the settlement of intergovernmental disputes.
Spatial Planning and Land Use Management Act, 16 of 2013	The Act provides for: - a framework for spatial planning and land use management in the republic. - provides a framework for the monitoring, coordination and review of spatial planning and land use management system. - addresses past spatial and regulatory imbalances. - provides for the establishment, functions, and operations of Municipal Planning Tribunals.

	directs the facilitation and enforcement of land use and development measures.
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5. STRUCTURE AND FUNCTIONS OF UMZIMVUBU LOCAL MUCIPALITY

5.1. Structure



The municipality comprise of its administration and Council consisting of 55 Councillors of both elected (28 ward representatives) and proportional (27 councillors) representation. The party representation is set out below:

- African National Congress
- African Independent Congress
- African Transformation Movement
- Democratic Alliance
- United Democratic Movement
- Economic Freedom Fighters

The municipality has the Mayor and the Speaker who is also the Chairperson of the Municipal Council. Daily operations and decision making of the municipality takes place through the Municipal Manager as the head of Administration. Umzimvubu Local Municipality has the following Portfolio Committees established in terms of section 80 of the Municipal Structures Act, 117 of 1998:

- Infrastructure and Planning
- Citizens and Community Services
- Local Economic Development
- Budget and Treasury
- Corporate Services

- Special Programmes and Communication

5.2 Powers and Functions of Umzimvubu Local Municipality

Umzimvubu Local Municipality operates within a legislative framework which consists of various statutes. The municipality has legislative and executive authority and is empowered to govern on its own initiative, the local government affairs of its community as provided for in sections 156 and 229 of the Constitution of the Republic of South Africa.

In terms of the statutes that govern local government, the powers and functions of Umzimvubu Local Municipality include inter alia:

- impose rates on property and surcharges on fees for services provided by or on behalf of the municipality;
- solid waste management;
- building regulations;
- promotion of local tourism;
- municipal planning;
- municipal public transport;
- storm water;
- trading regulations;
- billboards and the display of advertisements in public places;
- cemeteries, funeral parlour and crematoria;
- control of public nuisance;
- control of undertakings that sell liquor to the public;
- licensing and control of undertakings that sell food to the public;
- local amenities;
- local sports facilities;
- municipal parks and recreation;
- municipal roads;
- noise pollution;
- pounds;
- street lighting;
- street trading;
- traffic and parking;

6. KEY CONTACT DETAILS FOR ACCESS TO INFORMATION OF UMZIMVUBU LOCAL MUNICIPALITY

Physical Address
Dabula Street
Sophia
KwaBhaca
5090

Postal Address
P/Bag X9020
KwaBhaca
5090

67 Church Street
eMaXesibeni
4735
Telephone number: 039 255 8500 / 039 254 6000
Fax number: 039 255 0167
Email: enquiries@umzimvubu.gov.za

Contact details of Information Officer and Deputy Information Officer

Information Officer

Name: Mr. Gladstone Philip Tobela Nota

Designation: Municipal Manager

Tel: 039 255 8510

Email: Nota.Tobela@umzimvubu.gov.za

Postal address: P/Bag X9020, KwaBhaca, 5090

Physical address: Dabula Street, Sophia, KwaBhaca, 5090

Deputy Information Officer

Name: Mrs Novuko Kubone

Designation: Senior Manager: Corporate Services

Tel: 039 255 8500

Email: Novuko.Kubone@umzimvubu.gov.za

Postal address: P/Bag X9020, KwaBhaca, 5090

Physical address: Dabula Street, Sophia, KwaBhaca, 5090

Deputy Information Officer

Name: Mrs Celiwe Nenemba

Designation: Manager in the Office of the Municipal Manager

Tel: 039 255 8510 / 88

Email: Nenemba.Celiwe@umzimvubu.gov.za

Postal address: P/Bag X9020, KwaBhaca, 5090

Physical address: Dabula Street, Sophia, KwaBhaca, 5090

7. THE HUMAN RIGHTS COMMISSION AND THE INFORMATION REGULATOR

The Human Rights Commission was previously responsible for certain functions as provided in PAIA. The Information Regulator took over the regulatory mandate functions that relate to PAIA as of 30 June 2021. This follows a proclamation made by the President of sections 110 and 114(4) of POPIA, which provided for the amendment of the PAIA and the effective transfer of certain functions previously performed by the South African Human Rights Commission to the Information Regulator.

Chapter 5 of the POPIA deals with the establishment of the Information Regulator and section 40 outlines the powers, duties and functions of the Regulator:

- handling of complaints;
- issuing of code of conduct;
- consultations with interested parties; and
- the monitoring and enforcement of compliance with POPIA

8. AVAILABILITY OF THIS MANUAL SECTION 14(3) OF PAIA]

This manual will be made available to the Human Rights Commission in accordance with paragraph 4(1) of the Regulations promulgated in terms of PAIA, and will be published on the municipality's website (<http://www.umzimvubu.gov.za>). Copies of the manual will also be available at municipal offices reception area for perusal. The prescribed fees apply when copies have to be made for requesters.

9. GUIDE ON HOW TO USE PAIA AND HOW TO OBTAIN ACCESS TO THE GUIDE

9.1. The Regulator has, in terms of section 10(1) of PAIA, updated and made available the revised Guide on how to use PAIA ("Guide"), in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right contemplated in PAIA and POPIA.

9.2. The Guide is available in each of the official languages.

9.3. The aforesaid Guide contains the description of-

9.3.1. the objects of PAIA and POPIA;

9.3.2. the postal and street address, phone and fax number and, if available, electronic mail address of-

9.3.2.1. the Information Officer of every public body, and

9.3.2.2. every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA¹ and section 56 of POPIA²;

9.3.3. the manner and form of a request for-

9.3.3.1. access to a record of a public body contemplated in section 113; and

9.3.3.2. access to a record of a private body contemplated in section 504;

9.3.4. the assistance available from the Information Officer of a public body in terms of PAIA and POPIA;

9.3.5. the assistance available from the Regulator in terms of PAIA and POPIA;

9.3.6. all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging-

9.3.6.1. an internal appeal;

9.3.6.2. a complaint to the Regulator; and

9.3.6.3. an application with a court against a decision by the information officer of a public, a decision on internal appeal or a decision by the Regulator or a decision of the head of a private body;

9.3.7. the provisions of sections 145 and 516 requiring a public body and private body, respectively, to compile a manual, and how to obtain access to a manual;

9.3.8. the provisions of sections 157 and 528 providing for the voluntary disclosure of categories of records by a public body and private body, respectively;

9.3.9. the notices issued in terms of sections 229 and 5410 regarding fees to be paid in relation to requests for access; and

9.3.10. the regulations made in terms of section 9211.

9.4. Members of the public can inspect or make copies of the Guide from the offices of the public or private bodies, including the office of the Regulator, during normal working hours. The Guide can also be obtained-

9.4.1. upon request to the Information Officer;

9.4.2. from the website of the Regulator (<https://www.justice.gov.za/inforeg.org.za>).

10. REQUESTS FOR ACCESS TO INFORMATION (s 11 OF PAIA)

Everyone has the right to request access to recorded information held by the municipality, subject thereto that the request is made on the prescribed form and that the prescribed fees are paid. Access is also subject to the grounds of exclusion or refusal found in Chapter 4 of PAIA. The request may be made by anyone who acts in their own interests or acts on behalf of someone who cannot do so themselves.

10.1 Procedure for requesting records

A requester must complete the prescribed form which-

- (a) can be found in the Regulations to PAIA;
- (b) is on the website of the SAHRC at www.sahrc.org.za and www.inforegulator.org.za;
- (c) is attached to this document as **Annexure “A”**; or
- (d) is obtainable from the municipality.

10.2 Process

The request for information must be submitted to:

The Information Officer / Municipal Manager

Private Bag X9020

KWABHACA

5090

Attention: Mr GPT Nota

Tel: 039 255 8500

Fax: 039 255 0167

email: Nota.Tobela@umzimvubu.gov.za / Nenemba.Celiwe@umzimvubu.gov.za

Form of requests (s 18 of PAIA)

a) Access to information which is not automatically available must be requested in writing on the prescribed form, **Form 2 Regulation 7 request for access to record** attached hereto as **Annexure “A”** and be forwarded to the Information Officer or Deputy Information Officer.

The application form must be accompanied by the prescribed request fee.

a) The application should clearly state what information is required, whether a copy of the record is required, or the requester would like to view the record at the office of the municipality.

(b) If a requester asks for access in a particular form, then he or she should get access in the manner that has been asked for. This principle applies, unless doing so would interfere unreasonably with the running of the municipality, or damage the record, or infringe a copyright not owned by the municipality.

c) If for practical reasons, access cannot be given in the required form, but in an alternative manner, then the fee must be calculated according to the way that was first asked for by the requester. If, in addition to a written reply to their request for the record, the requester wants to be informed about the decision in any other way, for example telephonically, this must be indicated [s 18(2)(e) of PAIA].

d) When the requester is unable to read or write or has a disability, the request can be made orally in which event the Information Officer or Deputy Information Officer will complete the form on behalf of the requester. The Information Officer or Deputy Information Officer will render such reasonable assistance free of charge, as is necessary to enable the requester to comply with section 18(1) of PAIA.

e) If a requester has made a request of access that does not comply with section 18(1), the Information Officer or Deputy Information Officer concerned, may refuse the request if he/she has:

Notified the requester of an intention to refuse the request and the Information Officer or Deputy Information Officer or another official would grant a reasonable opportunity for the requester to alter the request for it to comply with section 18(1) of PAIA.

Request on behalf of another person

a) If the request is made on behalf of another person, a requester must submit proof of the capacity in which he or she is making the request, to the reasonable satisfaction of the Information Officer [s 18(2)(f) of PAIA].

Request by people with disabilities

(a) If a requester is unable to read or write, or if he or she has a disability that prevents him or her from completing the prescribed form, then he or she can make a verbal request. The Information Officer will then complete the form on behalf of the requester and give a copy of the completed form to the requester [s 18(3) of PAIA].

(b) The Information Officer will assist a requester to comply with the abovementioned requirements to request access to information, including referring a requester to another public body, if it is apparent that the request for information should have been made, to such other body [s 19 of PAIA].

Transfer of requests (s 20 of PAIA)

(1) If the request of access is made of the information that is not in the possession of the municipality, or the information is connected to another public body, the Information Officer or Deputy Information Officer will assist the requester to make the request to the relevant public body within fourteen (14) days after the request has been received.

- (a) The Information Officer of ULM may transfer requests for records to another public body when:
- (i) The record is in the possession of that public body;
 - (ii) the subject matter of the record is more closely associated with the functions of that public body;
 - (iii) the record was created for that public body, or was received first by that body; or
 - (iv) the record contains commercial information in which that public body has a greater commercial interest.
- b) If the municipality is in possession of the record which is being requested and its Information Officer considers it helpful to do so to enable the Information Officer of the other public body to deal with the request, the record or a copy of the record will be sent to that Information Officer.
- (c) If a request for access to a record has been transferred, any period prescribed for the completion of an activity related to the request, has to be computed from the date it was received by the Information Officer to whom it was referred. All the relevant periods that apply to a request for information have to be adhered to.

Notification of transfer

- (a) When a request for access has been transferred, the Information Officer making the transfer will immediately notify the requester of:
- (i) the transfer;
 - (ii) the reasons for the transfer; and
 - (iii) the period within which the request must be dealt with [s 20(5) of PAIA].
- (b) The Information Officer will reasonably ensure that a record to which access has been requested is preserved until a decision is taken about access to the information [s 21 of PAIA].

Payment of Fees (s 22 of PAIA)

- (a) Two types of fees are required to be paid in terms of PAIA, namely a **request fee** and an **access fee**. A requester who seeks access to a record containing personal information about him / herself is not required to pay the request fee. Every other requester must pay the relevant prescribed fee. The Information Officer must by notice require the requester to pay the prescribed request fee (if any) before the further processing of the request.
- b) The requester may lodge an internal appeal, where appropriate, or an application to the court against the payment of the request fee.
- (i) After the Information Officer has made a decision on the request, the requester must be notified of such a decision in the manner in which the requester wanted to be notified.
 - (ii) 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 within which to search and prepare the record for disclosure.
- (c) The fees that have been prescribed are contained in the Regulations promulgated in terms of the PAIA and must be paid by a requester before the municipality can make any records requested available to the requester.

A copy of the schedule of prescribed fees is attached to this document as **Annexure "D"**. Fees are payable, during office hours, at the municipality cashier's office at Dabula Street, Sophia, KwaBhaca or 67 Church Street, eMaXesibeni. Alternatively, fees may be paid by means of Electronic Funds Transfer as per the banking details below, quoting PAIA number as the reference number:

Account Name: First National Bank
Account No: 6202218 3727
Branch No: 210821
Branch Name: Umzimvubu Local Municipality - Mount Frere
Reference: PAIA reference number and name of Requestor

e) Certain persons as set out in **Annexure “E”** are exempted from paying access fees [s 22(8)].

Records not found/non-existing (s 23 of PAIA)

a) The Information Officer or Deputy Information Officer will by means of an affidavit/affirmation, inform the requester in the case that the records cannot be found or do not exist and that all reasonable steps have been taken to find the requested record, providing full reasons.

Deferral of Access (s 24 of PAIA)

a) Requests may be deferred until the information becomes available. The requester will then be notified accordingly and requested to make representations within thirty (30) days as to why the information is required prior to it becoming public.

Decisions on request and notice thereof (s 25 of PAIA)

a) The municipality will respond to the request within thirty (30) days, unless the request contains considerations that necessitate an extension of time. Where the extension of the 30-day limit is required, the requester shall be notified providing an explanation why such extension is necessitated. The time limit may be extended only once, for a further period of 30 days (Section 26).

Where a request for information cannot be met, a requester shall be:

- Informed of his/her right to make a formal application under PAIA.
- Informed of the fact that the certain types of requests for information may be refused.
- Informed of his/her right to appeal if the request is initially refused.

11. RECORDS / INFORMATION TO BE FORMALLY REQUESTED IN TERMS OF PAIA INCLUDE INTER ALIA:

- Salary advices
- UIF returns
- Annual financial reports
- Financial records
- Employee leave records
- Internal policies and procedures
- Documentation on disciplinary matters
- Internal correspondence on statutory documents
- Documentation on conditions of employment
- Records obtained from 3rd parties held by the municipality
- Various agreements entered into between the municipality and 3rd parties
- Documents pertaining to tenders and other procurement related matters
- Minutes of the Council and its various committees and sub-committees

- Data base of service recipients, including but not limited to residents, customers, suppliers, etc.

12. RECORDS AND CATEGORIES OF RECORDS HELD BY UMZIMVUBU LOCAL MUNICIPALITY

Description of subjects and categories of records held:

“**Records**” of the municipality refer to the records created or received in the course of business, kept as evidence of the municipality’s functions, activities and transactions. The municipality keeps different kinds of records which could be available in different media formats i.e paper or electronic.

Records held and accessible

Records held by the municipality are managed in accordance with the requirements of the Provincial Archives. These records are available subject to a person having to request access in terms of the PAIA and subject to such information not being excluded from disclosure in terms of the Act.

Umzimvubu Local Municipality holds records on the following subjects and categories:

Infrastructure Maps and plans Building Plans Geographical information Title deeds of municipal properties Town planning enforcement records Information on Council owned land Applications to lease or purchase property Town planning applications and consents	Road Traffic Management / Motor vehicle testing and licence records Contraventions and prosecutions Accident records Arrest reports/records Fines, summonses, court rolls Motor vehicle licencing information Applications for Learners licence Applications for driver's licence Information on renewal of driver's licence
Organisation and Control Delegation of Powers Policies Standard Operating Procedures Council Reports and Minutes Statutory reports submitted to Treasury Integrated Development Planning Code of conduct for Councillors and employees Litigation register Municipal Performance Management Municipal Indigent Registers Intergovernmental Relations Ward Committee support Disaster Management	Internal Financial Management Internal Audit reports
Solid waste management Solid Waste and landfill sites Environmental Impact Assessments	Libraries Library membership details

Financial Information Tariffs VAT records Invoices and supporting documents Bank statements and records of investments Financial Statements Debtor's statements and financial history Council bank reconciliations Details of payments made to creditors Rentals levied and arrears Valuation rolls Lease agreements on rented municipal properties Sale agreements of properties alienated by the municipality	Human Resources Records HR policies and procedures Salary and remuneration package details Staff vacancies, circulars and adverts Employees records EAP files Learning and development e.g.: skills development and training plans Employment equity plan and statistics UIF records Leave records
Supply Chain and Asset Management Procurement Tender registers Provisioning Asset Management	Internal Information Services Internal records management Internal security matters
Communications Internal communications Speeches Media publications Contact details	Attending and hosting meetings and other gatherings Public participation IDPs

13. UMZIMVUBU LOCAL MUNICIPALITY VOLUNTARY DISCLOSURE AND AUTOMATIC AVAILABILITY OF CERTAIN RECORDS WITHOUT A REQUEST FEE

The records as set out here are automatically available without a person having to request access in terms of PAIA, but where appropriate, remain subject to review by the Information Officer or Deputy Information Officer in terms of Section 15 (4) of the Act). All other records must be formally requested as provided for in this manual. The only fee payable, if any, for access to these records is the prescribed fee for reproduction.

- Debtor's accounts
- Town Planning Schemes
- Newsletters
- Brochures
- Policies
- All information as freely available on the municipal website: www.umzimvubu.gov.za

14. REFUSAL OF ACCESS TO CERTAIN RECORDS (s 33-46 of PAIA)

(1) The Information Officer or Deputy Information Officer may refuse access to certain records under the circumstances as provided for in section 33 to 46, in chapter 4 of PAIA.

Umzimvubu Local Municipality may refuse to grant access to records on the following grounds:

- a) Mandatory protection of a third party who is a natural person.
- b) Mandatory protection of the commercial information of a third party, if the record contains:

- Trade secrets of the third party;
- Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- Information disclosed in confidence by the third party to Umzimvubu municipality if the disclosure could put the third party at a disadvantage in negotiations or commercial competition.
- c) Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- d) Mandatory protection of the safety of individuals and property;
- e) Mandatory protection of records which would be regarded as privileged in legal proceedings;

The commercial activities of Umzimvubu municipality which may include:

- Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the municipality.
- Information which if disclosed could put the municipality at a disadvantage in negotiations or commercial competition.
- A computer programme which is owned by Umzimvubu municipality and which is protected by copyright.
- The research information of the municipality or a third party, if its disclosure would disclose the identity of Umzimvubu municipality, the researched or the subject matter of the research would place the municipality at a disadvantage.
- f) Requests for information that are clearly frivolous, or vexatious or which involve an unreasonable diversion of resources in terms of section 45 of the PAIA.

15. THIRD PARTY NOTIFICATION AND INTERVENTION (CHAPTER 5)

15.1 Notice to third parties (s 47 of PAIA)

- a) The Information Officer or Deputy Information Officer must take reasonable steps to inform the third party to whom or which the record relates of the request as soon as reasonably possible, but in any event, within 21 days after the request is received.
- b) The third party may, within 21 days after being informed, make written or oral representations to the Information Officer or Deputy Information Officer why the request should be refused or may give a written consent for the disclosure of the record to the requestor.

15.2 Decision on representations by Third Parties (s 49 of PAIA)

- a) The Information Officer must within 30 days decide whether to grant the request for access and notify the third party accordingly. If the request for access is granted, the notice must state:
 - adequate reasons for granting the request, including the provisions of this Act relied upon;
 - that the third party may lodge an internal appeal or complaint to the Information Regulator or an application, as the case may be, against a decision within 30 days after notice is given, and the procedure for lodging the internal appeal or application;
 - that the requester will be given access to the record after expiry of the applicable period; and
 - unless such internal appeal or complaint or an application with a court is lodged within that period.

16. REMEDIES AVAILABLE IN RESPECT OF AN ACT OR A FAILURE TO ACT BY UMZIMVUBU LOCAL MUNICIPALITY

Legislation applicable to local government may provide for an internal review or appeal procedure. Should this procedure be exhausted, or no provision be made of such a procedure, a court may be approached for an appropriate order in terms of the Promotion of Administrative Justice Act, 2000.

Questions, complaints, or comments regarding any service delivery by the municipality may be made as follows:

Tel: 039 255 8500 Monday to Thursday: 07h45 to 16h30

Friday: 07h45 to 15h15

Email: enquiries@umzimvubu.gov.za

Or

Visit the municipality at Dabula Street, Sophia, KwaBhaca or 67 Church Street, eMaXesibeni.

16.1 Internal appeal (s 74 of PAIA)

The municipality has formulated an internal appeal board with the intention to attend to appeals submitted in terms of section 74 of the PAIA. A requester may lodge an internal appeal with the municipality against a decision of the Information Officer or Deputy Information Officer if:

- a request for access is refused;
- fees charged are unacceptable;
- the period within which a decision with regard to access to a record must be made is extended;
- access to a record is not provided in the requested form; and
- a third party may lodge an internal appeal with the municipality against a decision by the Information Officer or Deputy Information Officer to disclose information relating to a third party.

Internal Appeal Procedure and appeal fees (s 75(1) of PAIA)

The appeal must be lodged on the prescribed **Form 4 regulation 9 internal appeal form** issued in terms of PAIA. A copy of the form is attached to this document as **Annexure "C"**. Copies thereof are also available from the municipality in the office of the Information Officer referred to in this document. The form is also available on the municipal website.

- a) An appeal must be lodged within 60 days or if notice to a third party is required in terms of s49(1)(b) of PAIA, within 30 days after notice has been given to the appellant of the decision appealed against, or if notice to the appellant is not required, after the decision was taken.
- b) An appeal must be delivered or sent by fax, electronic email address or sent to the address of the Information Officer.
- c) An appellant must provide reasons for the internal appeal, how he or she wishes to be informed of the decision about the appeal and must pay the prescribed appeal fee (if any) [s 75(3) of PAIA].
- d) The Information Officer will allow late lodging of an appeal only if the appellant's motivation is credible. An appellant will be informed if his or her late appeal was disallowed.
- e) A decision on the internal appeal may be deferred until the appeal fee is paid.

- f) Submission of an internal appeal to the Information Officer [s 75(4) of PAIA], the Information Officer must submit an internal appeal within 10 working days after receipt thereof to the appeal board in writing for consideration.
- g) The appeal board must, at the same time, be provided with the reasons for the Information Officer's decision against which the internal appeal was lodged and with the details of any third party that may be involved.

Notice to and representations by Third party (s 76 of PAIA)

- (a) When the appeal board is considering an internal appeal against the refusal of a request for access to the record of a third party, the disclosure of which may involve the unreasonable revelation of personal information, may harm the third party's commercial or financial interests or would constitute a breach of confidence, the appeal board must inform the third party about the appeal within 30 days after receipt thereof.
- (b) The appeal board must furnish the third party with a description of the contents of the appeal, details of the appellant and must state whether the appeal board is of the opinion that it would be in the public interest that the information should be revealed. The third party then has 21 days to make a written representation to the appeal board why the request for information should not be granted or, alternatively, give written consent for the disclosure of the record to the requester.
- (c) When the appeal board is considering an internal appeal against the granting of a request for access to information, the appeal board must notify the requester concerned of the appeal within 30 days after receipt thereof. The third party has 21 days to make a written representation why the access to the record should be granted.

Decision on internal appeal and notice thereof (s 77 of PAIA)

- a) When deciding on an internal appeal, the municipality may confirm the original decision or make a new decision. This must be done within 30 days after receipt of the internal appeal, or within 5 working days after receiving written representation regarding the appeal.
- b) The municipality must immediately notify the appellant, every third party involved and the requester of the decision and must provide the reasons for the decision. If the municipality fails to comply with the above procedures and time frames for the consideration of an internal appeal, it will be regarded that the municipality has dismissed the internal appeal.

16.2 Application to court (s 78 of PAIA)

- a) The appellant, third party or requester will also be informed that they may apply to a competent court for review of the decision of the municipality on an internal appeal. Such application must be made within 30 days after the decision has been taken, however, a requester or third party may ONLY apply to a court for such a review after the requester or third party has exhausted the internal appeal procedure and complaints procedure.
- b) The court may confirm, amend, or set aside the decision on an internal appeal or may grant an interdict.

17. PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY OR THE EXERCISE OF POWERS OR PERFORMANCE OF DUTIES BY UMZIMVUBU LOCAL MUNICIPALITY

ULM provides the following opportunities for consultation, making representations or otherwise participating in or influencing the formulation of policy / legislation or the execution of the mandate of the municipality:

- a) IDP and Budget Outreach;
- b) Publication of policies in the Government Gazette and on the municipal website;
- c) Stakeholder engagements;
- d) Traditional Leaders Summit;
- e) Municipal publications and newspapers;
- f) Mayoral Imbizo; and
- f) Invite public comments on the Annual Report.

18. PROTECTION OF PERSONAL INFORMATION ACT, NO 4 OF 2013

18.1 DEFINITIONS

“POPIA” or “POPI” means the Protection of Personal Information Act, 2013 (Act No 4 of 2013);

“POPI Regulations” means the regulations for the protection of personal information issued in terms of section 112(2) of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) on 14 December 2018;

“data subject” means the person to whom personal information relates;

“ consent” means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information.

“ Information Officer” in relation to ULM, means the Municipal Manager;

“de-identify” means, in relation to personal information of a data subject, to delete any information that: • identifies the data subject; • can be used or manipulated by a reasonably foreseeable method to identify the data subject; or • can be linked by a reasonably foreseeable method to other information that identifies the data subject; and • “de-identified” has a corresponding meaning.

“direct marketing” means to approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of: • promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject; or • requesting the data subject to make a donation of any kind for any reason.

“electronic communication” means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient’s terminal equipment until it is collected by the recipient.

“operator” means a natural or juristic person.

“personal information” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to: • information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person; • information relating to the education or the medical, financial, criminal or employment history of the person; • any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person; • the biometric information of the person; • the personal opinions, views or preferences of the person; • correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; • the views or opinions of another individual about the person; and • the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

“private body” means: • a natural person who carries or has carried on any trade, business or profession, but only in such capacity; • a partnership which carries or has carried on any trade, business or profession; or • any former or existing juristic person but excludes a public body.

“processing” means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including: • the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; • dissemination by means of transmission, distribution or making available in any other form; or • merging, linking, as well as restriction, degradation, erasure or destruction of information.

“public body” means: • any department of state or administration in the national or provincial sphere of government; or • any other functionary of institution when: - exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or - exercising a public power or performing a public function in terms of any legislation.

“public record” means a record that is accessible in the public domain and which is in the possession of or under the control of a public body, whether or not it was created by that public body.

“record” means any recorded information: regardless of form or medium, including any of the following: • writing on any material; • information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored; • label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means; • book, map, plan, graph or drawing; • photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced; • in the possession or under the control of the responsible party; • whether or not it was created by the responsible party; and • regardless of when it came into existence.

“Regulator” means the Information Regulator established in terms of the Protection of Personal Information Act.

“re-identify” means, in relation to personal information of a data subject, to resurrect any information that has been de-identified, that: • identifies the data subject; • can be used or manipulated by a reasonably foreseeable method to identify the data subject; or • can be linked by a reasonably foreseeable method to other information that identifies the data subject; • and “re-identified” has a corresponding meaning.

“Responsible party” means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information.

“Special personal information” means personal information relating to: • the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of the data subject; or • the criminal behaviour of a data subject to the extent that such information relates to: - the alleged commission by a data subject of any offence; or - any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

“Unique identifiers” means any identifier that is assigned to a data subject and is used by the responsible party for the purposes of the operations of the responsible party and that uniquely identifies that data subject in relation to the responsible party.

19. PROCESSING OF PERSONAL INFORMATION (ss 8-35 of POPIA)

The municipality will process personal information as per the conditions for lawful processing of personal information.

19.1 Purpose of Processing

- a) Personal information is processed to comply with the Public Body's constitutional and legislative mandates.
- b) Personal information amongst other things is used for:

- recruitment and employment;
- administration of compensation and benefits;
- performance management and training;
- risk management which includes physical and electronic security and access control via biometrics;
- procurement of goods and services;
- transact with suppliers;
- recover municipal debt;
- legal and contractual purposes; and
- rendering of services.

20. LIST OF PERSONAL INFORMATION KEPT

- a) The municipality collects and keep personal information for various reasons in order to fulfil its mandate in line with the Constitution of the Republic of South Africa.
- b) The municipality keeps personal information of the local communities / residents to enhance the rendering of services to its communities. On the other hand, employees are required to share their personal information with the municipality for human resource management.

Personal information that can be obtained include, but not limited to:

- a) qualifications;
- b) contact details;
- c) remuneration details;
- d) identification;
- e) names and surname;
- f) biometric information;
- g) Demographic details such as age, gender, physical and postal address;
- h) declaration of interest;
- i) medical information;
- j) next of kin information;
- k) employment information;
- l) ownership or rental information;
- m) vehicle details i.e vehicle registration number plate;
- n) Bidder's information;
- o) Rate payer's information

Collection of Personal Information (s 12 of POPIA)

The municipality collects personal information to support its service delivery mandate, and the information is collected directly from the data subjects where practical and should be in compliance with the POPIA.

Personal information may be collected through a variety of channels and may include the following:

- Surveys
- Websites
- Application forms
- Tenders and contracts
- Social media platforms
- Town planning compliance
- Responding to the questionnaires
- Through third party service providers
- Through surveillance cameras (with facial recognition technology).

Reasons for keeping personal information:

- Security background checks (vetting);
- closing agreements and contracts;
- registering of services;
- community consultations and feedback;
- debt recovery;
- disclosures;
- reports to Council on bad debt;
- process benefits i.e medical aid and pension;
- respond to enquiries, complaints and requests;
- considering bids in terms of tenders and quotations;
- sending and sharing of important communication;
- employment, remuneration, and other HR needs; and
- maintaining database for essential services, indigent support, and housing.

Collection of personal information for a specific purpose (s 13 of POPIA)

a) The municipality will use the information only for the intended purpose it was collected for unless the data subject grants a consent for additional use.

Retention of personal information (s 14 of POPIA)

- a) the municipality shall retain personal information for as long as it is necessary to fulfil the purpose it was collected for.
- b) to comply with legislative and or archive requirements whereafter it shall be deleted or disposed of.
- c) Retention periods will vary depending on the purpose information was collected for.
- d) The following criteria will determine retention periods:
 - legal or contractual or other obligations to retain personal data;
 - data necessary for an investigation or for litigation purposes; and
 - to maintain accurate records in line with relevant legislation.

Sharing of personal information

a) As a principle, the municipality shall only share personal information if the municipality has obtained consent from the data subject.

Transfer of personal information outside the Republic

The municipality has not planned Transborder flows of personal information, however, should it become necessary to transfer personal information to another country for any lawful purposes, the municipality will ensure that anyone to whom it pass personal information is subject to a law or binding agreement which provides an adequate level of protection and the third party agrees to treat that personal information with the same level of protection as the municipality is obliged under POPIA.

Personal information may be shared with the indicated stakeholders and in the following manner:

- SARS;
- medical aids, pension funds;
- financial institutions for payments;
- financial institutions for remuneration purposes;
- where necessary to comply with judicial proceedings and court orders;
- where consent has been obtained from the data subject for sharing;
- business partners, vendors or contractors to provide requested services or facilitate transactions;
- in response to a request for information by a legitimate authority in accordance with, or required by any applicable law, regulation or a legal process; and
- to protect the rights, property or safety of the municipality or others or as otherwise required by an applicable law.

Safeguarding of personal information (s 19 of POPIA)

a) The municipality is committed to protect personal information from misuse, loss, theft, unauthorised access or disclosure and modification by:

- using electronic and physical security measures.
- contractually requiring that third parties to whom personal information is disclosed to do the same.

b) Due to online security breaches that may occur, the municipality cannot fully guarantee the security or interception from external sources of any personal information being submitted or posted online.

c) The municipality has employed security safeguards that are reasonable and appropriate to the identified risks and the sensitivity of the information.

Rights of the data subject to access and maintenance of personal information

- a) The data subject may request the municipality to access, correct, update, block or delete personal information that the municipality holds subject to legislative requirements that make it compulsory for the municipality to keep such personal information.
- b) The Information Officer will acknowledge receipt of any such request within three (3) days of the date of submission.
- c) Such requests will be dealt with by the Information Officer who shall respond within a reasonable period and no later than thirty (30) days of the date of the request.
- d) The data subject may withdraw consent at any time for future processing.

- e) The data subject may request access to, and correction of personal data which is held by the municipality at any time by submitting a written request to the Information Officer.
- f) The data subject may object to the processing of personal data at any time.
- g) On any suspicion that personal information has been unlawfully processed, and rights relating to protection of your personal information were violated or that personal information has been compromised, the data subject shall contact the Information Officer and if not satisfied, may lodge a complaint with the Information Regulator.
- h) In the event of an information breach that the municipality becomes aware of, the municipality shall notify the data subject.

21. OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION (s 11 of POPIA)

- a) A data subject who wishes to object to the processing of personal information in terms of section 11(3)(a) of POPI, must submit the objection to the municipality on **Form 1**.
- (b) The municipality, or a designated person, must render such reasonable assistance as is necessary, free of charge, to enable the data subject to make an objection using **Form 1**.

22. REQUEST FOR CORRECTION OR DELETION OR DESTRUCTION OF PERSONAL INFORMATION (s 24 of POPIA)

- a) A data subject who wishes to request a correction or deletion of personal information or the destruction or deletion of a record of personal information of that data subject in terms of section 24(1) of POPI, must submit a request to the municipality using **Form 2**.
- b) The municipality, or a designated person, must render such reasonable assistance, as is necessary free of charge, to enable a data subject to complete **Form 2**.

23. APPLICATION FOR ISSUING CODE OF CONDUCT (s 61 of the POPIA)

- a) Applications for issuing the code of conduct by a public or private body may be issued on the Regulator's own initiative.
- b) Applications must be submitted to the Regulator on **Form 3**.

24. REQUEST FOR DATA SUBJECT'S CONSENT TO PROCESS PERSONAL INFORMATION

- a) If the municipality wishes to process personal information of a data subject for the purpose of direct marketing by electronic communication must in terms of section 69(2) of POPI submit a request for written consent to that data subject using **Form 4**.

25. SUBMISSION OF COMPLAINTS

- a) Any person who wishes to submit a complaint contemplated in section 74(1) of POPI must submit such a complaint to the Regulator using **Part I of Form 5**.
- b) The municipality or a data subject who wishes to submit a complaint contemplated in section 74(2) of POPI must submit such a complaint to the Regulator on **Part II of Form 5**.

26. REGULATOR ACTING AS CONCILIATOR DURING INVESTIGATION

- (1) If during the investigation of a complaint the Regulator decides to act as a conciliator in terms of section 76(1)(b) of POPI, and convene a conciliation meeting, the Regulator must, as soon as it is practically possible, inform the data subject and the municipality using **Form 6** of the following:

- (a) the Regulator's decision to act as a conciliator in the matter; and
- (b) the date, time and place of the conciliation meeting.

(2) The Regulator-

- (a) may consolidate separate complaints, which are alleged to relate to the same interference with the protection of personal information by the same responsible party, in order to deal with the complaints in the same conciliation proceedings;
 - (b) must ensure that all persons entitled to attend the conciliation meeting are notified within a reasonable time, of the date, time and place of the meeting;
 - (c) may request all the relevant documentation relating to the complaint from the data subject and the responsible party; and
 - (d) may confer with the parties in person, by electronic communication means, or by any other means as is deemed appropriate.
- (3) Where a conciliation meeting fails to take place, the Regulator must arrange for an alternative date and notify the persons entitled to attend the conciliation meeting accordingly.
- (4) The Regulator must issue a conciliation certificate using **Form 7** within a reasonable time after the date of the conclusion of the conciliation meeting.
- (5) If the complaint is not resolved, or either or both of the parties did not attend a conciliation meeting, the Regulator must proceed with the complaint as provided for in terms of section 76 of POPI.

27. PRE-INVESTIGATION PROCEEDINGS OF REGULATOR

- a) If the Regulator intends to investigate any matter contemplated in Chapter 10 of POPI, the Regulator must in terms of section 79 of POPI, notify the parties to whom the investigation relates of such intention on **Part I using Form 8** prior to conducting the investigation.
- b) The Regulator must inform the municipality if the investigation relates to it on **Part II of Form 8** of the complaint, or the subject matter of the investigation, and must inform the municipality of the right to submit a written response to the complaint or the subject matter of the investigation within the time allocated by the Regulator.

28. SETTLEMENT OF COMPLAINTS

- a) If it appears from a complaint or any written reply to the complaint under section 79(b)(ii) of POPI or during a conciliation meeting, that it may be possible to secure a settlement between the parties and if appropriate, satisfactory assurances as contemplated in section 80 of POPI, the Regulator may confer with the parties in person, by electronic communication means, or by any other means as is deemed appropriate to endeavour to obtain a settlement and if appropriate, satisfactory assurances as contemplated in section 80 of POPI.
- b) If during the process referred to in sub-paragraph (1) above the Regulator decides to convene a settlement meeting, the Regulator must, as soon as it is practically possible, inform the data subject and the municipality using **Form 9** of the date, time and place of the settlement meeting.
- c) For the purpose of settlement proceedings, the Regulator has the same powers of a conciliator contemplated in sub-regulations (2) to (3) of Regulation 8 of POPI.
- d) The Regulator must issue a settlement certificate using **Form 10** within a reasonable time after the date of the conclusion of the settlement meeting.
- e) If no settlement and assurance is secured or if either or both of the parties did not wish to attend a settlement meeting, the Regulator must proceed with the matter as provided for in terms of section 76 of POPI.

29. ASSESSMENTS

- a) A request for an assessment in terms of section 89(1) of POPI must be submitted to the Regulator on **Part 1 of Form 11**.
- b) The Regulator must inform the requester on **Part II of Form 11** if it has decided to conduct an assessment on:
 - i. its own initiative; or
 - ii. as requested in terms of sub-paragraph (i) above;
 - iii. within a reasonable time from the date that the decision was made.
- c) The period of assessment will be determined by the Regulator on a case-by-case basis.
- d) The Regulator must notify the requester or the municipality (if not the requester) of any decision made, or action taken, or view formed on **Form 12** within a reasonable time from the date that the decision was made, or action taken, or view formed.

30. INFORMING THE PARTIES OF DEVELOPMENTS REGARDING INVESTIGATION

(1) During the course of an investigation, the Regulator must within a reasonable time from the date of a decision being made or action being taken-

- (a) keep the complainant, the data subject (if not the complainant) and the responsible party informed of the developments of the investigation; and
- (b) inform the complainant, data subject (if not complainant) and the responsible party of the result of the investigation.

(2) The notifications contemplated in sub-regulation (1) of POPI Regulations must be served at the designated addresses of the complainant, the data subject and the municipality advising-

- (a) on **Form 13** that an enforcement notice will not be issued in terms of section 94(a) of POPI;
- (b) on **Form 14** that the complaint has been referred to the Enforcement Committee in terms of section 92 of POPI;
- (c) on **Form 15** that an enforcement notice has been served in terms of section 95 of POPI;
- (d) on **Form 16** that an enforcement notice had been cancelled or varied in terms of section 96 of POPI;
- (e) on **Form 17** that an appeal has been lodged against an enforcement notice for cancellation or variation of the notice in terms of section 97 of POPI;
- (f) on **Form 18** that an appeal against an enforcement notice has been allowed and that an enforcement notice has been substituted in terms of section 98 of POPI; or
- (g) on **Form 19** that an appeal has been dismissed in terms of section 98 of POPI.

31. AVAILABILITY OF THE MANUAL

A copy of this Manual or the updated version thereof, is available as follows-

- a) municipal website www.umzimvubu.gov.za;
- b) municipal reception area for public inspection during normal business hours;
- c) to any person upon request and upon the payment of a reasonable prescribed fee; and
- d) to the Information Regulator upon request.
- e) a fee for a copy of the Manual, as contemplated in annexure B of the Regulations, shall be payable per each A4-size photocopy made.

32. UPDATING OF THE MANUAL

Umzimvubu Local Municipality will, if necessary, update and publish this Manual annually.

Issued by



**MR GPT NOTA
MUNICIPAL MANAGER**

TARRIF STRUCTURE AND FEES PAYABLE

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:

(a) for every photocopy of an A4-size page or part thereof _____ R0,60

(b) for every printed copy of an A4-size page or part thereof held on computer or in electronic or machine-readable form _____

_____ R0,40

(c) for a copy in a computer-readable form on-

(i) Stiffy disc _____ R5,00

(ii) Compact disc _____ R40,00

(d) (i) for a transcription of visual images, for an A4-size page or part thereof _____ R22,00

(ii) for a copy of visual images _____ R60,00

(e) (i) for a transcription of an audio record, for an A4-size page or part thereof _____ R12,00

(ii) for a copy of an audio record _____ R17,00

3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is _____ R3,00

4. The access fee payable by a requester referred to in regulation 7(3) is as follows:

(1) (a) for every photocopy of an A4-size page or part thereof _____ R0,60

(b) for every printed copy of an A4-size page or part thereof held on computer or in electronic or machine-readable form _____ R0,40

(c) for a copy in a computer-readable form on:

(i) stiffy disc _____ R5,00

ii) compact disc _____ R40,00

(d) (i) for a transcription of visual images, for an A4-siza page or part thereof _____ R22,00

(ii) for a copy of visual images _____ R60,00

(e) (i) for a transcript of an audio record, for an A4-size page or part thereof _____ R12,00

(ii) for a copy of an audio record _____ R17,00

(f) To search for the record for disclosure for each hour or part of an hour, R15,00 reasonably required for such search and preparation.

4.2 For purposes of Section 22(2) of PAIA, 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.

4.3 The actual postage is payable when a copy of a record must be posted to a requester exemption from paying “**access fees**”

Person or persons exempted from paying access fee:

- (i) A single person whose annual income does not exceed **R14 ,712.00**; or
- (ii) Married persons or a person and his/her life partner whose annual income does exceed **R27, 192.00**

A requestor lodging an internal appeal against the refusal of his/her request for access must pay the prescribed appeal fee (if any) as contemplated in section 75(3)(a) of the PAIA.

- The Information Officer or the Deputy Information Officer may charge the requester access fees for anytime reasonable required in excess of the prescribed hours to search for and the record for disclosure.
- Information Officer or Deputy Information Officer may withhold a record until the requester has paid the required request or access fee which would be payable if the request is granted.
- This money must be refunded to the requestor if the PAIA request is refused. The actual postal fee is payable when a copy of a record must be posted to a requestor.
- Fees are subject to change by way of an official notice issued in the Government Gazette.

PEOPLE EXEMPTED FROM PAYING THE FEES FOR THE REQUESTED INFORMATION – GOVERNMENT GAZETTE NO 28107 DATED 14 OCTOBER 2005

I, Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, acting under section 22(8) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) hereby-

(a) exempt the following persons from paying the access fee contemplated in section 22(6) of the Act:

(i) A single person whose annual income, after permissible

deductions referred to in the Schedule to this notice are made,

does not exceed R 14 71 2, 00 per annum; and

(ii) married persons or a person and his or her life partner whose annual income, after permissible deductions referred to in the Schedule to this notice are made, does not exceed R27 192, 00

per annum, and

(b) determine that -

(i) where the cost of collecting any fee contemplated in section 22 of the Act, exceeds the amount charged, such fee does not apply;

(ii) the access fee contemplated in section 22(6) of the Act does not apply to the personal record of a requester; and

(iii) the request fee contemplated in section 22(1) of the Act and the access fee contemplated in section 22(6) of the Act do not apply to a record requested by a maintenance officer or maintenance investigator for purposes of a maintenance investigation or inquiry in terms of the provisions of the Maintenance Act, 1998 (Act No.99 of 1998) or the regulations made under section 44 of that Act.

SCHEDULE

1. For purposes of paragraph (a)(i) and (ii) of the notice the following deductions are permissible:

- a) Employees' tax in terms of paragraph 2 of Part II of the Fourth Schedule of the Income Tax Act, 1962 (Act No. 58 of 1962);
- b) contributions in terms of section 5 of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002);
- c) compulsory contributions to a Group Insurance Fund in terms of a court order or in terms of a contract between an employer and his or her employee;
- d) contributions to any medical scheme registered under the provisions of the Medical Schemes Act, 1998 (Act No. 131 of 1998), and allowed to be deducted in terms of section 18(l)(a) of the Income Tax Act, 1962 (Act No. 58 of 1962);
- e) contributions to pension funds in terms of section 13A of the Pension Funds Act, 1956 (Act No. 24 of 1956);
- f) rent or mortgage instalments to the maximum of R12 000,00 per annum;
- g) maintenance paid in terms of a court order; and
- h) school fees, except school fees paid to a private school.

B.S. MABANDLA, MP

Minister for Justice and Constitutional Development