penzance estate
special rating area • hout bay

PAIA MANUAL

(prepared in terms of section 14 of the Promotion of Access to Information Act, 2 of 2000 ("*PAIA*"))

of

PENZANCE SPECIAL RATING AREA NPC
A Non-Profit Company with Voting Members
(registration number: 2016/366791/08)
(the "PESRA NPC")

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"A" – Map depicting geographical boundaries of PESRA

1. DEFINITIONS

1.1. "**additional rate**" means an additional rate contemplated in section 22(1)(b) of the Local Government: Municipal Property Rates Act, 6 of 2004 (the "MPRA") and in section 22 of the City of Cape Town: City Improvement District By-Law (the "*By-law*);

1.2. "**business plan**" means the composite document, consisting of a motivation report, implementation plan and term budget as contemplated in section 5(9)(b)(i) of the By-law, the minimum required contents of which are listed in schedule 1 to the By-law;

1.3. "**By-law**" means the City of Cape Town: City Improvement District By-law, 2023;

1.4. "**CID**" means a contiguous geographic area, designated by the Council for the levying of an additional rate on rateable properties within its boundaries to finance improvements and upgrades of the public spaces within the district, operated by a management body, as contemplated in section 22 of the MPRA, and which may be further categorised as a Residential Improvement District, Mixed-Use Improvement District or Business Improvement District;

1.5. "**City**" means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 2000 of 22 September 2000, issued in terms of Section 12 of the Local Government: Municipal Structures Act, 117 of 1998 or any structure or employee of the City acting in terms of delegated authority;

1.6. "**Companies Act**" means the Companies Act, 71 of 2008;

1.7. "**Constitution**" means the Constitution of the Republic of South Africa, 1996;

1.8. "**Council**" means the Council of the City;

1.9. "**finance agreement**" means the agreement entered into between the City and a CID's management body, which provides for the determination and payment of the additional rate by the City and financial oversight of the management body.

1.10. "**Information Officer**" has the meaning assigned to it in section 1(x)(c) of PAIA;

1.11. "**MFMA**" means Local Government: Municipal Finance Management Act, 56 of 2003;

1.12. "Memorandum of Incorporation" ("**MOI**") means the document, as amended from time to time, that sets out rights, duties and responsibilities of shareholders, directors and others within and in relation to a CID company, and other matters as contemplated in section 1 and15 of the Companies Act;

1.13. "**municipal services**" has the meaning assigned to it in section 1 of the Systems Act;

1.14. "**PAIA**" means the Promotion of Access to Information Act, 2 of 2000;

1.15. "**PAJA**" means the Promotion of Administrative Justice Act, 3 of 2000;

1.16. "**personal information**" has the meaning assigned to it in terms of section 1(xviii) of PAIA;

1.17. "**personal requestor**" has the meaning assigned to it in terms of section 1(xix) of PAIA;

1.18. "**policy**" means the Policy for the determination of CIDs, or any other policy adopted by the Council in relation to CIDs, as in force from time to time;

1.19. "**principal object**" means the principal object of the Company as set out in article 4.1 of its MOI;

1.20. "**property**" means immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person, located within the geographical boundaries of the CID on which the City may levy an additional rate as provided for in section 229(1)(a) of the Constitution read with section 22 of the Municipal Property Rates Act;

1.21. "**Rates Act**" means the Municipal Property Rates Act, 6 of 2004;

1.22. "**record**" has the meaning assigned to it in section 1(xxiv) of PAIA, *viz*.: "*any recorded information - (a) regardless of form or medium; in the possession or under control of* [the CID NPC] …*; and (c) whether or not it was created by* [the CID NPC] …";

1.23. "**requester**" has the meaning assigned to in section 1(xxvii) of PAIA;

1.24. "**request for access**" has the meaning assigned to in section 1(xxxvi)(a) of PAIA;

1.25. **"SAHRC**" means the South African Human Rights Commission;

1.26. "**SRA**" means a geographic area within the City's jurisdiction designated Council under section 22 of the MPRA for the levying of an additional rate on rateable properties within its boundaries to improve and upgrade that area, referred to as a CID in the By-Law, the boundaries of which are delineated in Annexure A to this Manual, which is managed by the PESRA NPC.

1.27. "**Systems Act**" means the Local Government: Municipal Systems Act, 32 of 2000; and

1.28. **"term budget"** means the budget of the management body for five-year term of a CID included in the business plan as contemplated in Schedule 1 of the By-law.

2. INTRODUCTION

2.1. In terms of section 32 of the Constitution "*everyone has the 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*".

2.2. PAIA gives effect to section 32, providing for the procedures in terms of which access to information may be requested and the grounds upon which such requests may be refused. These grounds seek to strike a balance between the right to access information on the one hand, and the reasonable protection of privacy and commercial confidentiality, on the other hand.

2.3. In compliance with its duties as a "public body" in terms of section 1(xxiii)(b)(ii) of PAIA, the CID NPC has compiled this manual to assist members of the public in exercising their rights under PAIA. The Manual outlines: (1) the CID NPC's (i) establishment and statutory mandate; (ii) structure, functions and objectives; and (iii) contact details; (2) The procedure for requesting information from the CID NPC; (3) An outline of the CID NPC's records, identifying information that is automatically available and information that may be requested under PAIA; and (4) Fees payable when requesting access to any of these records.

2.4. This Manual is available for inspection, free of charge, at the CID NPC's offices (see para 5 below). The Manual can also be accessed on the website: www.penzance-estate.co.za. For any information not contained in this manual, kindly contact the Information Officer identified below.

3. ESTABLISHMENT AND STATUTORY MANDATE

3.1. To promote urban development, the Municipal Property Rates Act authorises Council to establish a City Improvement District ("*CID*"),[1] and to levy an additional rate on rateable properties located in the CID to finance improvements and upgrades of the public spaces within the district.[2]

3.2. The Council has enacted a By-law to give effect to this power, providing for a community-driven process in establishing such an area, referred to as a City Improvement District ("*CID*"). Applicants must prepare a business plan, outlining among other things proposed capital improvements and improved or upgraded municipal services. The By-law further stipulates that a non-profit company must be incorporated to carry out a CID's business plan.[3]

3.3. On 26 April 2017 Council resolved to establish the geographical area depicted in Annexure "**A**" attached hereto as the Penzance Estate Special Rating Area CID.[4]

3.4. The CID NPC was incorporated for the sole purpose of implementing the CID's business plan, as approved by Council.

3.5. In accordance with section 20 of the By-law, the City monitors the CID NPC's compliance with the By-Law, with any guidelines or policies adopted by the City and any agreements entered into between the CID NPC and the City.

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[1] Section 22(1)(a) of the Municipal Property Rates Act.

[2] Section 22(a)(b) of the Municipal Property Rates Act.

[3] Section 8 of the By-law.

[4] In terms of section 8(1) of the By-Law, read with section 22 of the Rates Act.

3.6. All registered owners of property located in the CID and liable for payment of the additional rate are entitled to become members of the CID NPC.[5]

4. ORGANISATIONAL PROFILE

4.1. The CID NPC is managed by its board of directors.

4.2. The current board members are as follows:

4.2.1. MARIETTE ARMITAGE – Chairperson;

4.2.2. LEIGH ANNE SHEVLIN MORRIS

4.2.3. ALLISON SCHWEGMANN

4.2.4. FRIEDAL MCLACHLAN

4.2.5. DEBBY ANNE MEINHOLD

5. CONTACT DETAILS & INFORMATION OFFICER

5.1. The Information Officer is the Chairperson of the Board, Mariette Armitage.

5.2. The CID NPC's details are as follows:

Physical Address

13 VAN OUDTSHOORN ROAD
PENZANCE
HOUT BAY
CAPE TOWN

Postal Address

13 VAN OUDTSHOORN ROAD
PENZANCE
HOUT BAY,
CAPE TOWN

Telephone number: N/A
Fax number: N/A
Website: www.penzance-estate.co.za
Email address of Information Officer: penzanceestate@gmail.com

[5] See article 9 of the CID NPC's MOI.

6. FUNCTIONS

6.1. The CID NPC's main function is to provide community-based private urban management within the public areas of the CID by:

6.1.1. improving and upgrading the CID through the provision of improved or expanded municipal services within its geographical area, which may include the management of municipal capital assets located within such area;

6.1.2. encouraging private investment in the CID;

6.1.3. facilitating a co-operative approach between the City and the private sector in the provision of municipal services;

6.1.4. promoting urban renewal, particularly in distressed areas within the CID; and

6.1.5. promoting economic growth and sustainable development, and in this way assisting the Council in fulfilling its objects and developmental duties as set out in its Integrated Development Plan contemplated in the Systems Act and the MFMA.

6.2. The CID NPC may fulfil these functions by performing the following activities in the CID:

6.2.1. supplementary sanitation services, e.g. cleaning sidewalks and public roads; emptying public trash bins; removing graffiti, and collecting municipal waste;

6.2.2. public safety services within the public areas of the CID (excluding policing interventions to prevent crime), e.g.:

6.2.2.1. conducting foot and vehicle patrols of public areas within the CID in order to identify, monitor and report violations of City by-laws to the relevant City Departments;

6.2.2.2. establishing effective communication networks with the City's Safety and Security Directorate, the South African Police Service ("*SAPS*"), the Community Police Forum ("*CPF*") and the local Neighbourhood Watch;

6.2.2.3. Reporting crime and summoning the SAPS immediately to incidents of serious crime;

6.2.2.4. installing additional lighting in public areas;

6.2.2.5. reporting hazardous street conditions to the relevant City Departments;

6.2.2.6. monitoring street vendors to ensure public safety and reporting violations of relevant City by-laws to the relevant City Department; and

6.2.2.7. conducting public education and awareness campaigns in the CID in relation to crime prevention strategies.

6.2.3. improving and maintaining municipal capital assets and infrastructure, subject to Council approval, e.g. installing and upgrading street lighting; illuminating street signs; installing street furniture (such as public benches); creating more public open spaces;

6.2.4. horticultural services, e.g. planting trees; installing sidewalk planters; maintaining street verges;

6.2.5. supporting community development and anti-poverty initiatives;

6.2.6. marketing and promoting the CID; and

6.2.7. other public benefit activities.

7. SOUTH AFRICAN HUMAN RIGHTS COMMISSION PAIA GUIDE

7.1. Section 10 of PAIA requires the South African Human Rights Commission ("*SAHRC*"), to compile a guide containing such information as may be reasonably required by a person seeking to exercise any right provided for in the Act. This guide is available from the SAHRC.

7.2. Kindly direct any queries to:

The South African Human Rights Commission
PAIA Unit
The Research and Documentation Department
Private Bag 2700
Houghton
2014
Tel: (011) 877 3600; Fax: (011) 403 0668
Website: www.sahrc.org.za
Email: PAIA@sahrc.org.za

8. ACCESS TO RECORDS OF CID NPC

8.1. The records listed below are automatically available without a formal request. They are available: (1) on the CID NPC's website; and/or (2) for inspection and copying at the CID NPC's offices upon prior arrangement (copying charges are set out in para. 10.9 – 10.11 below):

	RECORDS	SUBJECT-MATTER
8.1.1	Company details	Name; address; telephone numbers; contact persons and business hours.
8.1.2	Company Records	a. Notice of Incorporation; b. MOI; c. CIPC Registration Certificate; d. AGM Agendas and Minutes; e. Minute book of resolutions passed at members' meetings (only available for inspection and copying at offices); f. Public notices; g. Register of board members; h. Internal standard forms (such as consent forms, membership forms, proxy forms etc.); and i. Trade mark information.
8.1.3	Financial Records	a. Audited Financial Statements.
8.1.4	Documents contemplated in By-law/Policy	a. Business Plan (Schedule 1 of By-law); b. Finance Agreement between City and CID NPC (s.23(7) of By-law); c. Annual report submitted to City and relevant sub-council(s) on progress in implementing business plan (s.18(1) of By-law). d. Annual Budget (see Policy).
8.1.5	Procurement Records	a. Public notices; b. Invitations to tenders.
8.1.6	CID NPC Promotional and Marketing Material	a. Brochures regarding the CID; b. Media releases; c. Maps; d. News articles of interest.
8.1.7	Legislation	a. Municipal Property Rates Act; b. By-law; c. Policy; and d. Companies Act

8.2. The records listed below must be formally requested in terms of PAIA, access to which may be refused on the grounds outlined in para 10.19:

	RECORDS	SUBJECT-MATTER
8.2.1	Company Records	a. Board Meeting Minutes and Agendas. b. Register of Disclosed Conflicts of Interest of Directors; and c. Members' Register.
8.2.2	Financial Records	a. Monthly Financial Accounts; b. Additional Levy payments;

		c. Register of Assets; d. Tax, VAT and PAYE records (company and employees); e. Accounting and banking records; f. Invoices; and g. Management Accounts.
8.2.3	Procurement Records	a. Tender applications; b. Tender adjudication decisions and minutes; c. Letters of tender awards; d. Tender contracts; and e. Correspondence with contractors
8.2.4	Documents contemplated in By-law/ Policy	a. Term and Annual Budgets; b. List of Registered Owners of Property located within CID.
8.2.5	Documents pertaining to Services	a. Reports to City regarding By-law infringements; b. Records of crime incidents reported to SAPS; c. Crime statistics; d. Operational reports; e. Maintenance logs; and f. Need assessments.
8.2.6	Legal	a. Legal Opinions
8.2.7	Human Resources	a. Employee/ staff records; and b. Employment contracts
8.2.8	Correspondence	a. Correspondence with companies and organisations conducting activities in CID; b. Correspondence between the CID NPC and the City and/or Council; and c. Correspondence between CID NPC and CID property owners/ CID NPC members.

9. RECORDS AVAILABLE IN TERMS OF LEGISLATION

9.1. The CID NPC holds records in terms of the following legislation (the list is not exhaustive):

9.1.1. Basic Conditions of Employment Act 75 of 1997;

9.1.2. City of Cape Town: City Improvement District By-Law, 2023;

9.1.3. Companies Act 61 of 1973 and 71 of 2008;

9.1.4. Compensation for Occupational Injuries and Health Diseases Act 130 of 1993;

9.1.5. Employment Equity Act 55 of 1998;

9.1.6. Income Tax Act 95 of 1967;

9.1.7. Labour Relations Act 66 of 1995;

9.1.8. Occupational Health & Safety Act 85 of 1993;

9.1.9. Protection of Personal Information Act 4 of 2013;

9.1.10. Unemployment Insurance Contributions Act 4 of 2002;

9.1.11. Unemployment Insurance Act 63 of 2001; and

9.1.12. Value Added Tax Act 89 of 1991.

10. REQUEST PROCEDURE

Who May Request Access?

10.1. Upon satisfying the statutory requirements detailed below, a requester may access records held by the CID NPC.

10.2. In terms of s. 11(1) of PAIA, a requester must be given access to a record of a public body, such as the CID NPC, if:

10.2.1. That requester complies with all the procedural requirements under PAIA governing requests for access to that record; and

10.2.2. Access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of Part 2 of PAIA.

10.3. PAIA distinguishes between two types of requesters:

10.3.1. Personal requester: The CID NPC will provide the requested information, or give access to any record with regard to the requester's personal information. While the personal requester does not have to pay an access fee, the CID NPC will charge the prescribed fee for reproduction of the information.

10.3.2. Other requester: This requester is entitled to request access to information on third parties. However, the CID NPC is not obliged automatically to grant access. The requester must comply with all procedural requirements for access under PAIA, including payment of a request and access fee.

Form of Request

10.4. A link to Form 02, titled 'Request for Access to Record,' is included in this document for ease of reference

10.5. Requests must be addressed to the CID NPC's Information Officer.

10.6. The application must contain sufficient details to enable the CID NPC to identify:

10.6.1. The record/(s) requested;

10.6.2. The identity of the requester and his/her representative, if any;

10.6.3. The form of access required;

10.6.4. The requester's contact details in the Republic of South Africa; and

10.6.5. Whether the requester wishes to be informed of the decision in any manner other than in writing, such as by telephone, fax or email.

10.7. In the event the requester is unable to read or write or has a disability, the request may be made orally. In such a case, the Information Officer must complete the form on behalf of the requester.

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

Fees

10.9. PAIA provides for the payment of two types of fees:

10.9.1. The request fee: a standard non-refundable fee, payable prior to consideration of request. This fee is not payable in the event the request pertains to a record containing personal information about the requester. The request fee is currently R35.00.

10.9.2. The access fee: if the request is granted, this fee is payable for the reproduction of records and for time in excess of one (1) hour to search and prepare the records for disclosure. These fees are indicated in form 03.

10.10. Upon receipt of the request, the Information Officer, shall by notice require the requester (excluding a personal requester), to pay the prescribed request fee before further processing the request.

10.11. If, having undertaken the search for the record, it becomes apparent that the preparation of the record for disclosure (including arrangements to make it available in the requested form), is likely to exceed six (6) hours, the Information Officer may require the requester to pay a deposit of one third of the anticipated access fee.

Exemptions from Paying Fees

10.12. Requesters whose annual income (after permissible deductions), does not exceed R14,712.00 (if single), or R27,192.00 (if married), are exempted from paying the access fee contemplated in para 10.9.2 above.

10.13. Where the cost of collecting any fee contemplated in para 10.9 exceeds the amount charged, such fee does not apply.

Decision and Notice

10.14. The CID NPC will process the request within thirty (30) days, unless the request raises considerations that require an extension of this time period.

10.15. Where an extension of the 30-day time period is required, the requester shall be notified of the Information Officer’s decision in this regard, together with the reasons for such extension.

10.16. The requester will be notified of the Information Officer's decision in the manner specified in the request form.

10.17. If the Information Officer fails to give the decision on the request within the 30-day period or within any extended period, the Information Officer will be deemed to have refused the request.

Records not Found/ do not Exist

10.18. In the event the Information Officer is, notwithstanding all reasonable steps, unable to find the requested record, he/she will by way of affidavit or affirmation inform the requester accordingly and provide full reasons.

Refusal of Access to Records

10.19. Access to a record may be refused on one or more of the grounds contemplated in Part 2, Chapter 4 of PAIA.

Remedies

10.20. Should the requester be dissatisfied with the decision of the Information Officer, the requester may apply to Court for judicial review. Under PAJA, such an application must be made within 180 days after the date on which the requester was informed of the decision and the reasons for it, or might reasonably have been expected to become aware of the decision and reasons.

11. UPDATING THIS MANUAL

11.1. This Manual will be updated as and when necessary, but at least on an annual basis.

11.2. The most recent version of the Manual will be available on the CID NPC's website at www.penzance-estate.co.za.

11.3. A copy of the Manual (and updates), will be lodged with the SAHRC.

FORM 2: REQUEST TO ACCESS TO RECORD

FORM 3: OUTCOME OF REQUEST AND OF FEES PAYABLE

FORM 4: INTERNAL APPEAL FORM

ANNEXURE A

PENZANCE

APPROVED CID



0 10 20 40 60 80

Meters

1:1 000

Transverse Mercator Projection,
Central Meridian 19° East,
WGS84 Ellipsoid using the
Hartebeesthoek94 Datum

Please Note:

- Every effort has been made to ensure the accuracy of information in this map at the time of publication .
- The spatial data portrayed in this map is as current, accurate and complete as provided by the various line departments responsible for the maintenance of these datasets.
- The City of Cape Town accepts no responsibilityfor, and will not be liable for, any errors or omissions contained herein.

THIS MAP WAS COMPILED BY:

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CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.