

LIBRARY AND INFORMATION SERVICES BY-LAWS FOR NYANDENI MUNICIPALITY

1. DEFINITIONS

In these By-laws the following words shall, unless the context otherwise requires, have the meanings respectively assigned to them:

“a librarian” means the librarian in charge of the library operated by the Council, or any assistant or delegate of such person, and “that librarian” has a corresponding meaning;

“a library” means any one of the various libraries comprising the library and “that library” has a corresponding meaning;

“audio-visual material” means all films, records, compact discs, stiffys, audio books, language courses, audio and video cassettes, including digital video material, and gramophone records available for use in or borrowing from, a library, and whether the property of or on loan too the Council for that purpose;

“auditorium/lecture rooms” means an area or room or rooms at a library, which is made available for hiring under prescribed circumstances and conditions at a prescribed fee;

“charge” means an appropriate fee determined by the Council or contained in any by-laws made by the Council from time to time, in accordance with the relevant legislation;

“child” means any person under the age of sixteen years who has never been married;

“Council” means the Nyandeni Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

“indigent person” means any person in circumstances of poverty who is unable to make a monetary contribution to municipal service charges and whose total household income is below R800-00 or, in the case of a person dependent on grants, such as a pensioner, where the household income does not exceed R1080-00;

“lending period” means the period during which a member or visitor is permitted to retain any library material;

“librarian” means any official employed by the Council and who exercises control of and manages a library or a section thereof, and includes any assistant to a librarian;

“library” means any official employed by the Council and who exercises control of and manages a library or a section thereof, and includes any assistant to a librarian;

“library material” means all books, periodicals, newspapers, prints, pictures, documents, posters and printed music, and audio-visual material, regardless of whether it is the property of or on loan to the Council, and which is available to be perused, studied, copied or borrowed in or from a library;

“library week” means a period of one week or more during a year as determined by the Library and Information Association of South Africa, during which information services are promoted;

“member” means any person or organization registered as a member of the library;

“multimedia library” means a library dedicated to the provision and/or presentation of information in any two or more of written, visual, audiovisual and electronic forms, and includes facilities within a library that are capable of presenting information in such formats;

“organization: means a non-profit-making institution or company, or a cultural association having a constitution;

“pensioner” means any person aged 60 and over;

“prescribed fee” means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation;

“resident” means a person who resides in, is a property owner or rate payer, or who is employed within or is registered with an educational institution within the area of jurisdiction of the Council;

“specialized library material” means library material that needs special equipment in order to access the content of such material or the use of which is likely to inconvenience other patrons of a library if utilized within a library;

“Systems Act” means the Local Government: Municipal Systems Act, No 32 of 2000, as amended from time to time;

“the librarian”, unless the context indicates otherwise, means the Director: Library and Information Services or his or her assistant or delegate;

“visitor” means a person residing, working or studying for a period of not more than three continuous months in the area of jurisdiction of the Council.

2. ADMISSION TO LIBRARY

- (1) Subject to the provisions of subsection (2) hereof, and of section 19, any person admitted to a library may use the facilities of that library during official library hours; provided that if a person wishes to borrow library material, such person must first become a member of the library and pay the prescribed fee for membership.
- (2) A librarian may: -
 - (a) in his/her discretion determine the maximum number of persons that may be allowed in any part of the library at any given time and may exercise the necessary access control for that purpose;
 - (b) for any reasonable cause, instruct a member or other person to leave the library.

3. MEMBERSHIP

- (1) Application for membership or visitor’s rights shall be made on a form prescribed by the Council, which form must contain the undertaking referred to in subsection (2)(a)(ii).
- (2) The Council may -
 - (a) grant membership of a library to any resident, or any resident as a representative of any organization or similar body, duly authorized by that organization or body, provided such representative is duly authorised by that organization, and every person referred to in this paragraph must -
 - (i) pay the prescribed fee for membership; and
 - (ii) undertake to abide by the policies adopted by the Council from time to time for the conduct of the business of the library;
 - (b) grant, subject to such conditions as it may determine from time to time, membership of the library to a child if his/her parent or guardian so consents in writing and undertakes to ensure the observance by such child of the provisions of these By-laws;
 - (c) grant membership of the library to a person residing outside its area of jurisdiction and who is neither an owner of property within the Council’s area nor a rate payer of the Council on such conditions as may be determined by the Council from time to time;

- (d) admit a person residing, working or studying for a period of not more than three months in the area of jurisdiction of the Council may as a visitor if -
 - (i) such particulars as may be determined by the Council or the librarian are submitted by such person; and
 - (ii) such person pays the applicable prescribed fee; and
 - (iii) a librarian approves the application;
 - (e) exempt any applicant for membership who is an indigent case wholly or partly from the payment of the prescribed fee for membership.
- (3) (a) A library membership card must be issued to each member authorizing that member to borrow from the library such quantity of library materials as may be determined by the Council from time to time.
- (b) Additional membership cards, entitling the member to borrow further quantities of library material may be issued to a member in the discretion of a librarian.
- (4) A membership card is valid from its date of issue to the date of expiry stated thereon and the membership of a person to whom such a card has been issued lapses after the expiry of that period, unless it is renewed prior to the expiry date.
- (5) A member who wishes to cancel his or her membership of the library must –
- (a) notify a librarian in writing;
 - (b) return the membership card or cards in his or her name; and
 - (c) simultaneously return all borrowed library material in his or her possession to a librarian.
- (6) if library material is not returned in terms of section 3(5)(c), such person will be liable in terms of Section 8(2), with such adjustments as may be necessary.
- (7) When a member changes his or her address, the member must notify the librarian thereof within thirty (30) days after the change has taken place.
- (8) When a membership card is lost, the member must forthwith notify a librarian in writing, and -
- (a) the librarian must, on payment of the prescribed fee, issue a duplicate card;
 - (b) should a lost membership card subsequently be found by the member, any duplicate card must be returned to a librarian immediately;
 - (c) despite the provisions of section 8(1), the member is not liable in terms of that section for any library material borrowed against the lost membership card after the date of such notice.

4. LOAN OF LIBRARY MATERIAL

- (1) Library material which is not available for removal from library on loan in any reference of special library will be determined by the librarian and a notice specifying such material must be displayed at the inquiry desk of each library.
- (2) (a) Library material borrowed from a library is the responsibility of the member against whose membership card it was borrowed.
- (b) If a member borrows material from a library, that member must ascertain whether or not the material is visibly damaged, and if so, must draw a librarian's attention to the damage and that librarian shall record particulars of the damage on the date sheet and sign it.

- (c) When a member returns damaged library material, he or she will be responsible for making good the damage, or paying the prescribed fee in respect of damaged library material, as the case may be, unless the damage was previously recorded as contemplated in paragraph (b) hereof.
 - (d) No person may be in possession of library material outside a library unless it has been lent out to him or her in terms of a membership card.
- (3) A librarian may refuse to make damaged material available for borrowing, but where such material is made available for borrowing, the particulars of the damage must first be recorded in terms of section 4(2)(b).
- (4) A member may, upon payment of the prescribed fee, request that any library material not available -
- (a) at any particular library, but which is available through another library operated by the Council;
 - (b) in the library, but is available from another Library;
- be obtained from such source and made available or loaned, as the case may be, to him or her.
- (5) The loan of audiovisual-material or items from Student Service must be subject to the payment of the prescribed charge.
- (6) Library material bearing the distinguishing insignia of the Council or its predecessors or the insignia of the Eastern Cape Provincial Government, with no indication that it has been officially discarded or sold, remains the property of the Council or of the Eastern Cape Provincial Government, as the case may be.

5. RETURN OF LIBRARY MATERIAL

A member must return borrowed library material not later than the last day of the lending period provided that -

- (a) If it is not required by any other member, the librarian may then extend the lending period of any library material for a further lending period;
- (b) a member who has failed to return library material by the end of the lending period allowed by a librarian may not keep it for more than seven (7) days after receipt of a written notice from a librarian that such library material is to be returned to that library.

6. OVERDUE LIBRARY MATERIAL

- (1) If a member does not return library material borrowed against a membership card within the applicable period stated in section 5(a), he or she is liable for payment to the Council of the prescribed fees for every week or portion thereof during which the member fails to return library material, unless -
- (a) good cause, which may include serious illness, is shown to the satisfaction of a librarian;
 - (b) the return date falls within a National Library Week or other period when the library in question is closed to the public for any reason;
 - (c) any other period of grace lawfully given;
- (2) Every librarian must ensure that the rules and fees for overdue and lost library material are displayed at a prominent place in such library.
- (3) The Council may institute legal action to retrieve outstanding library material, and any prescribed fees or damages payable in connection therewith from a member.

7. RESERVATION OF LIBRARY MATERIAL

A member may reserve library material, provided that -

- (a) payment of the prescribed fee therefore is made in advance;
- (b) no library material will be held in reserve for a period longer than the period specified by the librarian or his or her authorized representative.

8. LOST AND DAMAGED LIBRARY MATERIAL

- (1) It must be stated on membership cards that if a member damages or loses library material, the member will be liable in terms of subsection (2) for payment to the Council of the prescribed fee therefore.
- (2) Library material not returned within one hundred (100) days from the date of borrowing must be regarded as lost, and the member who borrowed it last will immediately become liable for the replacement cost or fee prescribed in lieu thereof, at the discretion of the librarian.
- (3) The particulars of a member who has failed to return library material outstanding for a period longer than that stated in subsection (2) must, in the event of failure by the Council to retrieve such library material from the member, despite reasonable efforts to do so, be entered on a central register of unreturned library material, together with the details of the material in question, the unpaid prescribed fees fines due thereon, and the like, and such particulars must be circulated to all libraries operated by the Council, and the member's privilege of borrowing material from the library must be suspended until such library material is returned to a library or is paid for in full as prescribed.
- (4) Despite the other provisions of the section, lost or damaged library material remains the property of the Council or the Eastern Cape Provincial Government, as the case may be, even if the prescribed fee in respect thereof or the replacement cost, as the case may be, have been paid to the Council.
- (5) If damaged library material returned by a member is found to be repairable, the member must pay the repair or binding charge incurred by the Council, before being permitted to borrow any further library material.

9. HANDLING OF LIBRARY MATERIAL

A member who has borrowed library material or is using library material in the library is obliged to -

- (a) keep such library material in a clean condition;
- (b) prevent such library material from being damaged in any way;
- (c) ensure that such library material is not mutilated, defaced, marked, creased or damaged;
- (d) ensure that no part of such library material, or any protective coverings or any identification thereof as the property of the Council or the Eastern Cape provincial Government, as the case may be is removed;
- (e) ensure that any such library material is not lent to any unauthorized person.

10. EXPOSURE OF LIBRARY MATERIAL TO NOTIFIABLE AND INFECTIOUS DISEASES

- (1) No person known by him or her to be suffering from a notifiable medical condition as proclaimed in terms of section 45 of the Health Act, No 63 of 1977 may borrow or handle library material, and no member may allow any other person suffering from such a notifiable medical condition to handle or come into contact with library material

lent to that member if such handling would expose others to the danger of infection or any form of health hazard.

- (2) The provisions of subsection (1) apply also to any person supervising or in charge of a child known by such person to be suffering from such a notifiable medical condition.
- (3) A notice with examples of notifiable medical conditions must be displayed at a prominent place in a library.
- (4) Any person in possession of library material which to that person's knowledge has been exposed to a notifiable medical condition, must immediately advise a librarian that such library material has been so exposed.

11. LIBRARY MATERIAL FOR SPECIAL PURPOSES

- (1) Specialised library material may be used only in areas of a library specifically demarcated for that purpose, and no such material may not be removed from the part of a library without the permission of a librarian.
- (2) No person in possession of library material drawn from the reference section of a library may keep it for longer than ten (10) minutes after a librarian has requested its surrender.

12. REPRODUCTION OF LIBRARY MATERIAL AND OBJECTS AND USE OF FACSIMILE FACILITIES

- (1) Any person may use the facsimile and photocopier facilities of a library subject to -
 - (a) payment of the prescribed fee;
 - (b) the furnishing by him or her of a declaration in writing, if requested by a librarian, that the purpose for which the photocopy photographic reproduction is needed falls within the exceptions to the protection of literary, dramatic, musical and artistic works specified in the Copyright Act, 1965, as amended, and any subsequent amending or replacement legislation.
- (2) A librarian must display the relevant sections of such legislation in a prominent place in the library in question.
- (3) The permission of a librarian must be obtained before any library material or object in the library is reproduced by means of a photograph, motion picture, transparency or any other means.
- (4) In granting or refusing permission in terms of sub-section (2), a librarian may take cognizance of the possibility of damage being caused to such material or object as a result of it being handled for the purposes of making the reproduction, and may impose such conditions as may be reasonably necessary to prevent damage being caused to the material.

13. LIBRARY HOURS

The hours as determined by the Council during which any library will be open to the public must be displayed on a notice at or near the entrance to the library concerned and must state -

- (a) the days on and hours during which the library will open and close; and

- (b) the hours during which the use of such library or any section thereof will be restricted to adults or children.

14. HIRE AND USE OF AUDITORIA AND LECTURE ROOMS OR LIBRARY SPACE FOR EXHIBITIONS, FILMING OR PROGRAMMING

- (1) The Council may hire out to members or other persons, any auditorium, lecture room or other area within a library complex against the payment of the prescribed fee therefore, for the purpose of holding a lecture, debate or presentation or staging of an exhibition or filming or programming a sequence of scenes requiring a library background or which incorporates the use of library material.
- (2) Application for the hire of any such facilities must be made in writing to the librarian.
- (3) Despite the provisions of section 14(1), such facilities may be made available without charge -
 - (a) to organizations supporting the provision of library services;
 - (b) for such specific activities as the Council may from time to time either generally or specifically determine.

15. INTERNET VIEWING STATIONS

Any person may utilize the internet viewing stations of a library, where such facilities are made available by the Council, provided that he or she -

- (a) pays the prescribed fee therefore;
- (b) obtains prior permission being obtained from a librarian;
- (c) observes the maximum period of use as determined by a librarian;
- (d) abstains from loading personal software on to any hardware comprising an internet viewing station;
- (e) agrees to and does bear the cost of repairing any damage caused intentionally or negligently to the internet equipment while being operated by him or her;
- (f) agrees to and does observe the Council's policy on e-mail and internet usage, which must be displayed at each station.

16. HIRING OF MULTIMEDIA LIBRARY SPACE

- (1) A multimedia library may be made available to any person applying therefore against payment in advance of the prescribed fee.
- (2) Any person who or body which wishes to hire a multimedia library must make an advance reservation with the librarian in charge thereof.
- (3) The hiring of a multimedia library shall be subject to such conditions as the librarian may determine.

17. PERFORMING ARTS LIBRARY

- (1) All printed music must be made available for loan free of charge to registered adult members and organizations.
- (2) Material not for loan may be determined by the Performing Arts Librarian in his/her discretion.

- (3) Orchestral and bulk vocal scores may be made available for loan only to orchestras, school libraries and choirs upon written application and against payment of the prescribed fee.

18. POSITIONING OF BY-LAWS AND NOTICES IN A LIBRARY

- (1) A copy of these By-laws must be available for inspection and a notice to that effect must be displayed at a prominent place in every library and be brought to the attention of library users where necessary.
- (2) There must be displayed in every library a notice to the effect that neither the Council, nor any of its office bearers or employees are liable for any loss or injury sustained by any person using premises or library material.

19. CONDUCT IN THE LIBRARY

- (1) Any person who -
 - (a) conducts or engages in excessively loud conversation in any part of a building housing a library in a manner which causes or is likely to cause annoyance to any other person in that library; or
 - (b) uses abusive or otherwise objectionable language or behaviour or behaves in a disorderly manner in a library; or
 - (c) hampers, disturbs, obstructs or harasses any other person in the legitimate use of a library; or
 - (d) damages any part of a library building or its contents; or
 - (e) furnishes a false name or address to a librarian for the purpose of entering any part of that library or for obtaining any benefit or privilege; or
 - (f) enters or remains in the library while knowingly suffering from any notifiable medical condition or while under the influence of intoxicating liquor or habit-forming drugs; or
 - (g) smokes, eats, drinks, sleeps in any part of a library where these activities are forbidden; or
 - (h) contravenes any other provision of these By-laws;

may be ordered by a librarian to leave that library, and if he or she refuses to do so, may be removed from such library by the use of reasonable and necessary force.

- (2) Any person who, despite being ordered to desist there from, persists in conduct of any kind referred to in section 19(1)(a) or (b), is guilty of an offence and on conviction liable to imprisonment for a period not exceeding 6 months, or to a fine in lieu thereof or to both such fine and imprisonment.

20. LIABILITY FOR LOSS OR INJURY

- (1) The Council is not responsible for any damage to, loss or theft of any items brought into a library building by members of the public.
- (2) The Council is not liable for any claim for person injury sustained by any member of the public whilst on any library premises or whilst using any library material.

21. CONFLICT OF LAWS

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.