

# ***PERRY PUBLIC LIBRARY***

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*Make It Part of Your Day*

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## First Amendment Audit Public Library Response Policy & Protocol

### Purpose

This "Policy & Protocol" will be used by the Perry Public Library to address concerns related to non-employees photographing, recording and/or broadcasting/streaming images on library property (whether or not those conducting the stream or making the recording call it a "First Amendment Audit").

### Policy

As a public library, the Perry Public Library is obligated to ensure information access, patron privacy, and library service.

To help fulfill those obligations, it is the policy of the Perry Public Library to honor state and federal law and policy with respect to photographing, recording, broadcasting, and streaming images of the premises, patrons, and employees while on library property (for the sake of clarity, all such activity is referred to in this document as "Recording").

The Library will allow all Recording consistent with its obligations and mission. The Library reserves the right at all times to refuse any Recording that will negatively impact safety, patron privacy, employee work conditions, and/or routine library operations.

### Protocol

Whenever possible, individuals or media outlets who wish to engage in Recording should contact the Director to arrange, at least two business days in advance, how such Recording can be done without risking a breach of the library's ethics, its obligation to safeguard patron privacy, and to ensure a respectful environment for library employees. This may be done by calling or emailing the library director. When contacting the Library with this need, please be ready to discuss what content is needed, and how to adapt that need to the library's ethical and operational priorities, if necessary.

Individuals or media outlets who wish to engage in Recording on a more immediate basis, please contact the Director, or their designee working at the time, **as soon as possible**. This may be done by calling the library or emailing the director. Just like recording with more notice, those with urgent requests should be ready to discuss what access will meet your needs, and to adapt your needs to the library's ethical and operational priorities, including not being able to grant a same-day request.

For individuals or media outlets who wish to engage in Recording without notifying the library in advance, please know that any Recording activity that risks negatively impacting safety, patron privacy, employee work conditions, and/or routine library operations, or a violation of our Patron Code of Conduct, will result in a requirement to cease Recording.

As with any other ongoing potential violation of Library policy, any individuals or media outlets who, after being asked to stop engaging in Recording, does not cease Recording, will be told to leave Library property, pending further action under any applicable policy.

#### Recording with Permission in the Library (non-commercial)

Requests to Record in the Library for non-commercial purposes, including journalism from credentialed journalists, will be confirmed with this permission whenever time allows:

*Thank you for working with the Library to explore recording/streaming/broadcasting in our space ("Recording"). As you know, any Recording in the Library must be conducted safely, without risking a breach of the library's ethics, with attention to its obligation to safeguard patron privacy, and in a way that respects our employees and doesn't disrupt routine operations. To ensure these safeguards, we met on DATE, and agreed that you could record in [AREA] during the hours of [TIMESPAN]. You confirmed that the end project will be a non-commercial recording (commercial recordings are subject to additional requirements, including insurance). Thank you so much for your cooperation.*

#### Recording with Permission in the Library (Commercial)

Requests to Record in the Library for commercial purposes (movies, advertisements, documentaries) will be confirmed by a contract, based on the project, and may include insurance requirements and indemnification.

#### "First Amendment Audits", harassing behavior, and other unannounced Recording

The Library recognizes and honors that as a public entity, the public has a right to access information about the Library. This includes being subject to the Freedom of Information Law ("FOIL") and the Open Meetings Law ("OML"). To that end, the Library's policies and board materials are on our website, and the public may attend our meetings as required by law.

Further, the Library recognizes and honors that not all journalists are credentialed by formal media outlets, and the public has the right to know about the operations of the Library.

However, the Library's board of trustees also has the right to set the hours and conditions needed to operate the library, and this includes barring any activity that would impact safety, patron privacy, employee work conditions, and/or routine library operations, or a violation of a library policy. To that end, this policy, protocol, permission language, response script, and posted notice will be used to promote requests for access to Record on the premises, and to address any unauthorized Recording on the premises that risks mission and obligations.

**Template Response Script to address unauthorized Recording that presents a risk:**

FIRST: Identify and confirm what is at risk: [select at least one: *safety, patron privacy, employee work conditions, and/or routine library operations*]

SECOND: *"I work at the library. We are concerned that your activity is risking [select: safety, patron privacy, employee work conditions, and/or routine library operations]. We do have a process for recording in the library without risking a violation, would you like to be connected to the person who can help with that?"*

If they say "no" or refuse":

*"Since this activity is a violation of our policy, I have to ask you to leave, pending further action under the applicable policy."*

If they say "no" or refuse":

Initiate action based on **Patron Code of Conduct**.

DO NOT argue, but DO point to the posted notice put up per the Policy.

## Posted Notice:

Recording in/streaming from the Library:

To ensure patron confidentiality and protect routine operations, **recording patrons or patron service areas is forbidden during normal hours of operation.**

However, any person who wishes to record, photograph, stream, or broadcast images from the library, for any purpose, is welcome to contact the Library at (585) 237-2243 to help make that happen.

The Library reserves the right at all times to refuse any on-site recording, photography, or streaming/broadcast that could negatively impact safety, patron privacy, employee work conditions, and/or routine library operations.

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### IMPLEMENTATION NOTE (not a part of the policy!)

~~Trustees considering implementing their own version of this template will notice that this template "Policy & Protocol" references a "Patron Code of Conduct" and/or a "Visitor Code of Conduct", and an "appropriate" policy for addressing issues of trespass.~~

~~References to these policies are in [brackets] because the names and approaches of these policies vary from library to library. Some public libraries have very detailed rules for patron conduct, as well as separate rules for visitors and vendors. Others have less robust protocols for how they handle issues of behavior, safety, and trespass.~~

~~No matter what combination of policies a library to govern conduct of non-employees on-site, the key is to make sure they are current, that the employees are trained on them, and that they are supported by the board. For municipal libraries, it is a very good idea to develop such policies together with the village/town/city attorney (especially if the municipality owns the building).~~

~~Another note: whenever possible, this type of policy should be informed by the recent experiences and concerns of the library's employees. After all, while the overall well-being of the library is the job of the board of trustees, the day-to-day operations (like someone recording them in the library!) are in the hands of the employees. Asking the~~

~~director to channel that input to the board (before the policy is passed) will be worth your time.~~

~~And finally, I encourage dedicating some employee time for training and role play (i.e. practicing using it "in the moment"). In my experience, if and when there is a recording issue your library, a board will be grateful they did a dress rehearsal.~~

~~I hope this template is a helpful resource for your library's own, customized version. I welcome your comments on implementing or working with this suggested policy and protocol.~~

~~Stephanie Adams, Esq.~~