



Fletcher Free Library
235 College Street
Burlington, Vermont 05401
Ed Adrian – Board Chair

LIBRARY BOARD of COMMISSIONERS
SPECIAL MEETING

Monday, July 24, 2017 at 12:00 NOON
Local History Room of the Fletcher Free Library

AGENDA

1. Approval minutes 05/15/17
2. Approval agenda
3. Public Forum
4. Director's Report (*attached*)
5. Report from Behavior Taskforce Committee (*Agenda, Minutes & redraft of Library Ordinance attached*)
6. Report from Development Taskforce Committee (*Minutes to be circulated after the meeting as taskforce meeting occurs immediately before this Commission meeting, July 24 at 11AM*)
7. Approval Commission Annual Report FY17 (*draft circulated by Commission Chair*)
8. Friends Report (*attached*)
9. New Business
10. Next meeting agenda items and date
11. Adjournment

LIBRARY BOARD OF COMMISSIONERS MEETING MINUTES

Monday, 15 May 2017 at Noon in the Local History Room of the Library

Subject to review

In attendance: Ed Adrian, Cate MacLachlan, Peter Ireland, Mary Ellen Manock, Charles Winkelman, Glenn MacRae, Jessica Nordhaus, Allyson Laackman, Patrick Kinner, Ellen MacLellan, Mary Danko, Kath Laing (Clerk)

Apologies: Megan Butterfield

1. Approval minutes 03/27/17 – the minutes were approved, with the addition of Patrick Kinner in attendance.
2. Approval agenda – the agenda was approved unanimously.
3. Public Forum – there was no public forum.
4. Director’s Report – Mary highlighted the following efforts: ensuring the library is a safe place for all patrons. Enhancement of summer programming to include learning as well as reading, with an emphasis on STEAM learning. Two exciting developments: recently the 118 teens from all over the state descended on the library as part of Vermont’s first teen literary festival – Teen Lit Mob, organized by FFL, Essex and Champlain Valley High School. The event was highly successful. Additionally, the library was recently awarded a NASA @ My Library grant through an ALA / NASA partnership.
5. City email accounts for Commissioners – The City has created email accounts for all members of City boards and commissions. Access your email account at <http://portal.office.com>. You will have received an email with your login and password on January 24th. Paper copies of emails sent distributed to commissioners.
6. Discussion around the Trespass Ordinance – Mary is researching the use behavioral expectations within library environments, specifically the use of hierarchy of expectations that reflect the severity of behavior. Currently the library’s notice of prohibited behaviors and trespass requires library staff give all infractions a warning, prior to a one-day trespass. Followed by a 90-day trespass if the warned offense repeats within 6 months. Followed by a one year trespass, for a third warned offense. Commissioners are interested in seeing other library policies and implementation metrics. Mary will bring this back to the next Commission meeting.
7. FY18 Budget – Mary will be presenting that budget to the City Council in CR12 on May 18th at 6:15pm. All Commissioners are invited to attend. The budget presents a \$60,000 increase to FY17 budget – \$40,000 of that is in staff salary and benefit increases. As in past years, 2% of the budget is available for strategic allocation by the Library Director.
8. Commission vacancies – Charles Winkelman will reapply for his position on the Commission.
9. Friends’ Report – Ellen MacLellan presented the Friends 2016 Annual Report to the Commission. See attached.
10. New Business – Glenn MacRae proposed creating task forces of Commissioners, staff and Friends (ad hoc committees) to move initiatives forward. Commissioners seemed interested in creating two such task forces: 1) a development & fundraising task force aimed at contributing to the transition and design of the annual appeal under the Friends / 501c3, as well as contributing to the development of a capital campaign for the library remodel and upgrade; and 2) a taskforce to work with Mary and admin staff to research other libraries policies and implementation of behavior expectations in the library. Commissioners will contact the Commission Chair with their interest to participate.

11. Next meeting agenda items and date – the next meeting will be on 24 July 2017 and the following meeting is set for September 18th.
12. Adjournment – the meeting ended at 1:10pm.



To: Library Commission
From: Mary Danko, Library Director
Date: July 20, 2017
Re: Director's Report

General Business

- **Website RFP** – Our website RFP is almost finished. I'm grateful to the City IT Department for all their assistance.
- **Security Contract RFP** – The submission deadline to our RFP for our Security contract has ended and we are continuing with this process.
- **New Key Card System** – Our new key card system for our exterior and interior doors has begun being installed.
- **Advertising & Promotion** – We are starting a task force to determine a streamlined way for each of the programming librarians to best promote their events.
- **Marketing** – We are continuing to unroll our new brand with an improved welcome brochure, new signage and new name tags.
- **Security Cameras** – We are working with the city to figure out the next stages of our new security camera system.

Programming & Library Services

- **Summer MegaMix** – Our [Summer MegaMix Program](#) has gotten off to a great start. The staff is doing a great job with the changes in the program and we are already seeing the benefits of going to a more well-rounded Summer Learning Program.
- **Upcoming Programming:** [Burlington Rising – August 2017 - November 2017](#)

Based on the success of our *Smithsonian Exploring Human Origins* exhibit and programming, we are now planning programming series that are robust and involve many partners. We are very excited about our next series of programming, *Burlington Rising*. *Burlington Rising* is a series of lectures and culinary demonstrations centered on the historical role of bread in human civilization. Burlington Rising provides opportunities for people from a variety of backgrounds to learn from each other; educate our community about the historical foundations of diet and food preparation; and engage multiple generations in activities that build relationships through stories and food preparation. This programming is being supported by a grant from the Vermont Humanities Council.



- **Make Music Day** – The library was pleased to partner with Burlington Telecom and Big Heavy World for Burlington’s Make Music Day on June 21 using LOLA Technology. Make Music Day is now held on the same day in more than 750 cities in 120 countries. LOLA, is the name for a **LOW LATency** Audio Visual Streaming System which uses specialized devices to give musicians, separated by up to 1500 miles, the experience of performing together in the same room. LOLA runs on a special 100 gigabit Ethernet technology called Internet2 and was developed to enable collaborative live performances, master classes, and remote auditions in the performing arts. Our host here was newly hired Dennis Moynihan of BTVignite. Rock and hip-hop collaborations featured Girls Rock Vermont, Chattanooga Girls Rock, the Vermont hip-hop collective Cultural Chemistry and Hip-Hop CHA. It was a great event and showed the power collaboration using LOLA. We are already planning for next year’s event.

Staff

- **Levels** – We have some staff who are dealing with health challenges right now and that has affected some services we offer. We are doing our best to re-allocate some work and hire subs as needed.
- **New Circulation Manager** – We are pleased to announce that we have hired Emer Feeney as our Circulation Manager. Emer was an internal candidate and has worked at the library for 9 years as a Library Assistant at the Circulation Desk. We are now in the process of hiring for Emer’s position. We are grateful to the Human Resources Department for all their help with our recent hires.
- **New Tech Support Specialists** – We are pleased to announce our two new Tech Support Specialists:
 - Dodit Tshibamba (Full time) – *Dodit (pronounced Doe-dee) is from the Democratic Republic of the Congo. He came to this country in 2012. He has just completed his degree in Network Administration from CCV. He is fluent in 5 languages.*
 - Leanne Galletly (Part time) – *Leanne attended UVM for her Undergrad and recently graduated from Simmons College at which she earned her Masters degree in Library & Information Science. Leanne has done project work for the Harvard University Library and the American Archive of Public Broadcasting.*

We are excited for the different expertise each of these new hires brings to the library team. Each will be offering new digital literacy classes this fall. Please give them a big, warm Burlington welcome when you see them.



- **Blood Pathogen Training**– Staff attended blood pathogen training at our monthly staff meeting.
- **360 Reviews** – With the help from Human Resources Department I am in the beginning stages of planning and instituting a 360 degree review component to help inform yearly development meetings with staff. I will be the first person to undergo this type of review.

Misc

- **NH URBANS meeting** – I was invited to be a guest at the NH URBANS (Urban Public Library Consortium) meeting in Manchester, NH. It was helpful to connect with library directors at urban libraries. Either myself, or Assistant Director, Robert Coleburn, will try to attend future meetings when possible.
- **Vermont Library Association Conference** – I attended a one day UnConference for Vermont Librarians. It was also an opportunity to get an update on the Vermont State Library. A new state librarian has been appointed: Scott Murphy. Along with Scott, several other vacancies have been recently filled. At the conference I also learned more about the new State-wide Inter-Library Loan Software that will be starting in August. This new system is much more efficient than the current system. We anticipate many new efficiencies and improved patron services.



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LIBRARY BOARD of COMMISSIONERS
BEHAVIOR POLICIES & ENFORCEMENT TASKFORCE MEETING
(Glenn McRae Taskforce Chair)
SPECIAL MEETING

July 6, 2017 at 4:30pm
Local History Room of the Fletcher Free Library

AGENDA

1. Approval agenda
2. Public Forum
3. Revision of documentation provided
4. Discussion around recommendations for Commission
5. Next meeting agenda items and date
6. Adjournment



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LIBRARY BOARD of COMMISSIONERS
BEHAVIOR POLICIES & ENFORCEMENT TASKFORCE MEETING
(Glenn McRae Taskforce Chair)
SPECIAL MEETING MINUTES
July 6, 2017, 4:30-6:00pm
Local History Room of the Fletcher Free Library

Attending: Glenn McRae, Megan Estey Butterfield, Charles Winkleman, Patrick Kinner, Mary Danko, Robert Coleburn

AGENDA & NOTES

1. Approval agenda
-Approved
2. Public Forum
-No members of the public present
3. Review of Documentation Provided (see attached)
 - a. Multnomah County Library Behavior Rules
 - b. Staff comments on the Multnomah County Library Behavior Rules
 - c. Current FFL Rules of Prohibited Behaviors and Trespass in Burlington Code of Ordinances
 - d. ALA guidance document “Foundations: The Library as Public Forum (Library Access and Behavior Policies)
4. Discussion around recommendations for Commission
ACTION: The library staff (lead by Mary) will provide the full commission with a draft of a new policy based on the Multnomah County policy, revising it to both fit the Burlington context, taking into account specific feedback points from staff and the Taskforce. All Taskforce members agreed that the Multnomah model was a positive step forward to improve policies to guide staff in continuing to improve conditions at FFL as a safe and productive space for staff and patrons.

DISCUSSION:

The 2010 ordinance has numerous deficiencies that impede work and action to achieve the library’s mission.

- Not flexible
- Treats all behavior violations the same
- Appeal process is not in the ordinance
- Current trespass notices signed by library staff, making them vulnerable

The current situation of managing behavior issues is well documents for the commission in reports over the past 4 years, as well as in reports to the Mayor’s office and police. While some steps have

*The latest Library Board Meeting Minutes and Upcoming Meeting Agendas are
Posted on our website: <http://www.fletcherfree.org/about.html#Board>*



been taken (e.g., addition of security personnel; bathroom policy; building partnerships with police, Howard, Church Street Marketplace; staff training) a sense of security and safety is still not fully established for staff and patrons. Staff also suffer productively loss from addressing multiple unplanned issues.

The staff responses to the Multnomah County Library behavior rules were very instructive in understanding the current situation, and providing the task force with information about what might need to be modified. We agreed that these ideas and suggestions should be taken into account in the drafting of a new policy for review by the Commission.

Two areas of discussion that were not fully resolved;

1. What should the age of children be that the provision “Leaving one or more children under the age of X, who reasonably appear to be unsupervised or unattended, anywhere in or on library premises,” applies to as a behavior violation? The current age is “6.” All agreed that should be older (settling on 9; and supervision by an adult 16 years or older). One consideration was that in the event of a building evacuation, at what age could it be reasonable assumed that the child would be able to make good decisions on how to respond and be able to identify their parents or guardians.
2. The question of whether the children’s area can be restricted for use by children, their parents when accompanying their children or any adult who has a reasonable and stated purpose for being in the area (e.g., a teacher reviewing books or literature for class; an adult learner who is reading at the level of books in the section) – in all cases the adult without children should identify their purpose to the librarian on duty, otherwise they could be justifiably asked to leave the area. Can such a policy be reasonably enacted?

TO DO:

Mary will compile an overview of the actions that have been taken by library staff to build capacity to address the issues, training and staff preparation; building partnerships; having staff always engage with behavior issues in pairs, etc. for the Commission.

Recommended that Mary compile a listing of incidents and appeals monthly to review with staff as a regular discussion item to enhance continuous learning on effective response and to document for the Commission at its meetings.

An effective and “independent” appeals process needs to be part of the ordinance. Task Force members questioned whether the Commission is an independent appeals body.

Mary, working with staff will compose a full draft policy for consideration at the July Commission meeting for consideration. She will strive to circulate a copy a week in advance.

5. Next meeting agenda items and date
-No meeting set; Draft to be submitted to full Commission for its next meeting. A follow-up meeting will be scheduled after the next Commission meeting if needed.
6. Adjournment -Meeting adjourned at 5:55pm

ATTACHMENT A

Multnomah County Library behavior rules

Last revised 07.01.15

Multnomah County Library's behavior rules protect the rights and safety of library patrons and staff members, and preserve and protect the library's materials, facilities and property.

Definitions and scope

These behavior rules shall apply to all buildings, interior and exterior, and all grounds controlled and operated by the Multnomah County Library (such buildings and grounds are hereafter referred to as the "premises") and to all persons entering in or on the premises.

Listed below are the library's behavior rules. Persons who violate these rules may be ejected from the premises and excluded from all library premises for the period of time listed below, by authority of Multnomah County Executive Rule No. 252.

Behavior rules

Any person who violates rules 1-5 while in or on library premises will be immediately ejected and excluded from all Multnomah County Library premises without first being given a warning. Any person so excluded shall lose all library privileges for a period of up to three years, and the incident will be reported to the appropriate law enforcement agency.

1. Committing or attempting to commit any activity that would constitute a violation of any federal, state or local criminal statute or ordinance.
2. Directing a specific threat of physical harm against an individual, group of individuals or property. Violation of this rule will result in a minimum exclusion of one year.
3. Engaging in sexual conduct, as defined under ORS 167.060, including, but not limited to, the physical manipulation or touching of a person's sex organs through a person's clothing in an act of apparent sexual stimulation or gratification.
4. Being under the influence of any intoxicating liquor or controlled substance, including marijuana and marijuana derivatives. Controlled substance is defined in ORS 475.005.
5. Possessing, selling, distributing or consuming any alcoholic beverage (except as allowed at a library approved event), marijuana or any marijuana derivative.

Any person who violates rules 6-19 while in or on library premises will be given up to one warning at the discretion of library staff; then the person will be asked to leave the premises for the day. Subsequent offenses by that person will result in that person's immediate ejection and

exclusion from all Multnomah County Library premises. Any person so excluded shall lose all library privileges for a period of up to one year.

6. Engaging in conduct that disrupts or interferes with the normal operation of the library, or disturbs library staff or patrons, including, but not limited to, conduct that involves the use of abusive or threatening language or gestures, conduct that creates unreasonable noise, or conduct that consists of loud or boisterous physical behavior or talking.
7. Using library materials, equipment, furniture, fixtures or buildings in a manner inconsistent with the customary use thereof; or in a destructive, abusive or potentially damaging manner; or in a manner likely to cause personal injury to the actor or others.
8. Disobeying the reasonable direction of a library staff member or library security officer.
9. Soliciting, petitioning, or distributing written materials or canvassing for political, charitable or religious purposes inside a library building, including the doorway or vestibule of any such library building or in a manner on the library premises that unreasonably interferes with or impedes access to the library.
10. Interfering with the free passage of library staff or patrons in or on the library premises, including, but not limited to, placing objects such as bicycles, skateboards, backpacks or other items in a manner that interferes with free passage.
11. Placing personal belongings on or against buildings, furniture, equipment or fixtures in a manner that interferes with library staff or patron use of the library facility, or leaving personal belongings unattended.
12. Bringing bicycles or other similar devices inside library buildings, including, but not limited to, vestibules or covered doorways if no bicycle rack is provided within that area.
13. Operating roller skates, skateboards or other similar devices in or on library premises.
14. Parking vehicles on library premises for purposes other than library use. Vehicles parked in violation of this rule may be towed at the owner's expense.
15. Smoking, any use or preparation of tobacco, or any use or preparation of vaping devices or substances.
16. Consuming food or drink that creates a nuisance because of odor, garbage or spills. Non-alcoholic beverages in closed containers and small amounts of snack foods are allowed. No food or drink of any kind are allowed inside the John Wilson collections at Central Library.
17. Bringing animals inside library buildings (with the exception of service animals), except as allowed at a library-approved event, or leaving an animal tethered and unattended on library premises in violation of Multnomah County Code §13.305.
18. Violating the library's rules for [Acceptable use of the Internet and library public computers](#), which are posted at every public computer table.

19. Taking library materials into restrooms if the materials have not been checked out.

Any person who violates rules 20-23 while in or on library premises will be given up to two warnings at the discretion of library staff; then the person will be asked to leave the premises for the day. Subsequent offenses by that person will result in that person's immediate ejection and exclusion from all Multnomah County Library premises. Any person so excluded shall lose all library privileges for a period of up to six months.

20. Sleeping in or on library premises.

21. Improperly using library restrooms, including, but not limited to, bathing, shaving, washing hair and changing clothes.

22. Using personal electronic equipment at a volume that disturbs others, including, but not limited to, pagers, stereos, televisions and cellular telephones.

23. Leaving one or more children under the age of 6, who reasonably appear to be unsupervised or unattended, anywhere in or on library premises.

Any person who violates rules 24 and 25 while in or on library premises will be excluded from the premises until the problem is corrected.

24. Entering library buildings with bare feet or a bare chest.

25. Disturbing others because of offensive body odor.

Repeat Offenses

Individuals who repeatedly violate these Behavior Rules after having been previously excluded for library rule violations may face a longer exclusion than indicated in these guidelines. Repeat offenders need not violate the same rule to be subject to stricter enforcement and may not be warned that their behavior is inappropriate before being excluded.

ATTACHMENT B: Library Staff feedback on the Multnomah County Library behavior rules, presented at Commission taskforce meeting 07062017

AD:

1. I like that there are some rules that when broken don't require a warning before telling the person to leave the property.
2. I like that the number of warnings are "at the discretion of library staff".
3. The mention of ordinances in #1 needs to be reviewed, because our ordinances fall into some of their less-offensive categories.
4. #4: being under the influence: we can't necessarily prove this unless the person smells of alcohol—we have this issue already with our present rules—maybe it should read "appearing to be under the influence of alcohol or drugs"?
5. #15: I like that preparation of tobacco products is not allowed—I've wanted this added to our rules.
6. #16: I've heard that we are going to start allowing food—I like the consideration of not allowing food that causes odors.
7. #17: I like the addition of not leaving animals unattended outside—we've had a lot if incidents of barking or scary-looking dogs tied at the raised bed or bike rack.
8. #25: I like the ability to ask someone to leave because of body odor until they correct it.

EF:

I agree with A's excellent points; especially like the ability to ask people who are not following basic rules to leave without a laborious trespass process, and the seriousness with which not listening to staff persons is treated.

BS:

I too agree with A and with E. I think the way the rules are laid out is easy to understand and that it is clear which offenses warrant immediate removal from the library and less dangerous offenses have a clear warning process.

CW:

Echoing all other comments expressed! Having the range of repercussions is brilliant and necessary.

#4 I'm skeptical that we will have much authority in the range of "being under the influence of intoxicating liquor, etc" because we are not trained to detect or distinguish between possible causes of a perceived impairment. I would rather us have a policy of calling police if we suspect intoxication/controlled substance/other impairment, and let the police make the determination.

#11 Lead off with the most important part: "Leaving personal belongings unattended, placing personal belongings on or againstetc. It's the unattended part that is problematic here, and #10 addresses the issue of blocking passage with stuff.

#12 Simplify a bit. “Bringing bicycles or other similar devices inside the library building, including the front entrance or other covered areas. Bicycle racks are available at the front of the building for patron use.”

#21 Could we add laundering clothes? Though it does say “including, but not limited to”

#23 Regarding unattended child under 6--should we need any language about calling the police if the parent/guardian cannot be found?

#24 We have people who enter the library barefoot, but many, many more who remove shoes once inside. Could we move it up to the 20-23 range of repercussions?

Did I miss seeing anything about entering non-public or staff-only spaces without permission?

Also, #19, just eww. Never thought about it before, now I can't stop!

RG:

I'm concerned about #12, since we occasionally have preschoolers & older children with tricycles, scooters & bikes who do not have locks, and we always have lots of strollers.

ATTACHMENT C

City Ordinance on behavior and prohibited activities at FFL and Consequences

(followed by correspondence between librarian Mary Danko and Deborah Caldwell-Stone who is one of the attorneys for the American Library Association (ALA). ALA is the industry association that provides multitude levels of support to libraries of all types.)

(a) Prohibited activities. The following activities are prohibited at the Fletcher Free Library.

- (1) Disorderly behavior. Disorderly behavior shall include fighting, disturbing or harassing other patrons or staff.
- (2) Defacing, destroying or misusing library property, including furniture and other furnishings.
- (3) Possessing open or opened intoxicants, food or beverages or being under the influence of intoxicating liquor as defined in [23 V.S.A. § 1200\(4\)](#) or drug as defined in [23 V.S.A. § 1200\(2\)](#).
- (4) Bathing or laundering in restrooms.
- (5) Sleeping.
- (6) Being barefoot or shirtless.
- (7) Entering unauthorized areas of the library.
- (8) Bringing animals, except personal assistance animals, onto the premises.
- (9) Leaving children, under the age of six (6) unattended.
- (10) Any behavior that disturbs or may interfere with other people's use of the library or behavior that is otherwise illegal.

(b) Enforcement: Prior to the issuance of any municipal complaint under subsection (b)(2) of this section, a library department staff person or police officer shall notice the offending patron that his or her conduct is prohibited under subsection (a) of this section. If after receiving notice, the patron violates the same subsection at anytime thereafter, the following enforcement provisions shall apply.

(1) First offense. Any violation of any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of a minimum fine of fifty dollars (\$50.00) to a maximum fine of five hundred dollars (\$500.00). The waiver penalty for purposes of the municipal complaint (civil ticket) shall be fifty dollars (\$50.00). The co-directors of the Fletcher Library, supervisory staff and all law enforcement officers are authorized to issue a municipal complaint for a violation of this section and the recipient shall not be permitted within the library for the balance of the day on which the alleged offense occurred.

(2) Second offense. The co-directors of the Fletcher Library, supervisory staff and all law enforcement officers are authorized to issue a municipal complaint for a violation of this section. In addition, the co-directors of the Fletcher Library, supervisory staff and all law enforcement are authorized to issue an order of no trespass prohibiting the recipient from entering the library for a period of up to ninety (90) days commencing immediately upon said issuance. Any violation of any provision of subsection (a) above by an individual who has within the preceding six (6) months violated any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of a minimum fine of one hundred dollars (\$100.00) to a maximum fine of five hundred dollars (\$500.00). The waiver penalty for purposes of the municipal complaint (civil ticket) second offense shall be one hundred dollars (\$100.00); payment of which shall also be deemed acceptance of the no trespass order. Both the fine and the no trespass order may, at the discretion of the prosecuting official, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the community justice program.

(3) Third and subsequent offense. The co-directors of the Fletcher Library, supervisory staff and all law enforcement officers are authorized to issue a municipal complaint for a violation of this section. In addition to the municipal complaint, the co-directors of the Fletcher Library, supervisory staff and all law enforcement are also authorized to issue an order of no trespass prohibiting the

recipient from entering the library for a period of up to one (1) year commencing immediately upon said issuance. Any violation of any provision of subsection (a) above by an individual who has on two (2) or more occasions within the preceding twelve (12) months violated any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of a minimum fine of one hundred fifty dollars (\$150.00) to a maximum fine of five hundred dollars (\$500.00). The waiver penalty for purposes of the municipal complaint (civil ticket) third or subsequent offense shall be one hundred fifty dollars (\$150.00); payment of which shall also be deemed acceptance of the no trespass order. Both the fine and the no trespass order may, at the discretion of the prosecuting official, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the community justice program.

(c) Protection of library property; penalties:

(1) The city may recover in a civil action damages for detained or damaged library property, together with costs and reasonable attorney's fees. Damages may include both delinquent fines and replacement fees.

(2) A person who willfully damages or defaces or removes without authorization any recording, book, or object available for public use or loan from the Fletcher Library or other repository of public records or documents in the city or who detains any library property for more than thirty (30) days after written notice to return the property has been mailed shall be fined not more than five hundred dollars (\$500.00) for each offense. Each piece of library material shall be a single offense.

(Ord. of 4-13-98; Ord. of 10-15-01; Ord. of 8-9-10(1))

On Mon, Jun 19, 2017 at 5:00 PM, Mary Danko <mdanko@burlingtonvt.gov> wrote:

Hi Glen,

Thank you so much for your patience as I continue to try and work through the best ways to deal with our ordinance. Below is an email I received from Deborah Caldwell-Stone who is one of the attorneys for the American Library Association (ALA). ALA is the industry association that provides multitude levels of support to libraries of all types. Deborah's email is in response to mine which can also be read below. I reached out to Deborah because my preliminary research brought up some confusion.

I'm also attaching the Multnomah Library Policy which Robert and I like very much. We would like to be able to model our amended ordinance after this one. I think it would be great if the group could read the materials and then we could get together to figure out next steps. I will be away June 26-30th for vacation.

Take care, Mary :>)

From: Deborah Caldwell-Stone [mailto:dstone@ala.org]

Sent: Monday, June 19, 2017 3:32 PM

To: Mary Danko <mdanko@burlingtonvt.gov>

Subject: RE: Library behavior policies and enforcement

Dear Mary,

I apologize for the delay in responding; I was traveling on business last week and am preparing for the ALA Annual conference.

I've read your city ordinance, and as you already understand, you are bound to follow it until it is repealed or amended. My thought is that you should attempt to amend the law, rather than remove it, since it provides the legal foundation for your behavior policies overall. I've attached my basic handout on library access and behavior policies as well as an excerpt from the Intellectual Freedom Manual; both contain guidance and checklists on developing behavior rules. I would also recommend reviewing the Neinst and Armstrong cases cited in my handout with your city attorney for guidance on crafting amendments to the city ordinance that will best meet constitutional standards, including due process.

I would be happy to set up a time post-conference to discuss these issues with you, if you wish. Please let me know if that will be helpful.

Cordially,
Deborah Caldwell-Stone

Deputy Director
[Office for Intellectual Freedom](#)
[American Library Association](#)
[Freedom to Read Foundation](#)
50 East Huron, Chicago, IL 60611
[800-545-2433 x 4224](#)
[Libraries Transform!](#)

From: Mary Danko [<mailto:mdanko@burlingtonvt.gov>]
Sent: Wednesday, June 14, 2017 4:02 PM
To: Deborah Caldwell-Stone <dstone@ala.org>
Subject: Library behavior policies and enforcement

Hello Deborah,

I have a legal issue I hope you can help with or perhaps recommend someone who can.

I am the new library director for the Fletcher Free Library in Burlington, Vermont. Our population is around 42,000. We are located in the heart of downtown so we really have the feel of an urban library. Being an urban library we have had our share of issues with disruptive behavior due to mental health issues and/or addiction issues.

About 10 years ago the city approved a special library ordinance. I've pasted the ordinance in below. This ordinance is quite difficult for library staff to deal with. As you will read, regardless of the severity of the behavior, a written warning must be given first. After that, if there is another prohibited behavior (within 6 months) we can write a 1 day trespass. After that we can then write a 90 day trespass and then a year long trespass, again if there is a prohibited behavior in the 6 month window.

Consequently, if someone is under the influence and is very disruptive we have to give him or her a written warning. As you can imagine we would much prefer to just trespass this person for period of time.

I have been talking to my colleagues and have found that they have library policies on behaviors and they can trespass as they see fit. I have also done a bit of research and have found [this](#) which sites this court case:

Kreimer v. Bureau of Police, 958 F.2d 1242 (3d Cir. N.J. 1992) Homeless patron was expelled from the library on at least five occasions for violating its rules governing patron conduct. He sued the library claiming the library rules were unconstitutional under the First Amendment as well as under the Due Process and Equal Protection clauses of the U.S. Constitution's Fourteenth Amendment and similar provisions of the New Jersey Constitution. The trial court rules in patron's favor, (striking down the library rules) sending tremors throughout the library world. The trial court judge wrote: "If we wish to shield our eyes and noses from the homeless, we should revoke their status, not their library cards."

The appellate court reversed, holding that the library constituted a type of limited designated public forum. The stated purpose of the library rules was to "allow all patrons of the joint free public library of Morristown and Morris Township to use its facilities to the maximum extent possible during its regularly scheduled hours." The court applied a "reasonable" standard to rules #1, #5 and the unnumbered provisions. It applied an "intermediate" scrutiny to rule #9 on hygiene. All of the challenged rules were upheld:

1. Patrons shall be engaged in activities associated with the use of a public library while in the building. Patrons not engaged in reading, studying, or using library materials shall be required to leave the building.
5. Patrons shall respect the rights of other patrons and shall not harass or annoy others through noisy or boisterous activities, by staring at another person with the intent to annoy that person, by following another person about the building with the intent to annoy that person, by playing audio equipment so that others can hear it, by singing or talking to others or in monologues, or by behaving in a manner which reasonably can be expected to disturb other persons.
6. Patrons shall not interfere with the use of the Library by other patrons, or interfere with Library employees' performance of their duties.

Patrons shall not be permitted to enter the building without a shirt or other covering of their upper bodies or without shoes or other footwear. Patrons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building.

Any patron not abiding by these or other rules and regulations of the library shall be asked to leave the library premises. Library employees shall contact the Morristown Police if deemed advisable.

Any patron who violates the Library rules and regulations shall be denied the privilege of access to the Library by the Library Board of Trustees, on recommendation of the Library Director. Any patron whose privileges have been denied, may have the decision reviewed by the Board of Trustees.

It is of more than passing interest to compare this version of the rules, upheld by the court, with an earlier version that was amended in an attempt to avoid the lawsuit. Note the problematic portions *italicized* in an earlier version of the rules. As noted, the revised rules listed above were upheld by the federal appellate court.

1. Patrons shall be engaged in normal activities associated with the use of a public library while in the building. Patrons not engaged in reading, studying, or using library materials may be asked to leave the building. *Loitering will not be tolerated.*
5. Patrons shall respect the rights of other patrons and shall not annoy others through noisy or boisterous activities, by *unnecessary staring, by following another person through the building*, by playing walkmans or other audio equipment so that others can hear it, by singing or talking to oneself or by other behavior which may reasonably result in the disturbance of other persons.
9. *Patron dress and personal hygiene shall conform to the standard of the community for public places. This shall include the repair or cleanliness of garments.*

Any patron not abiding by these or other rules and regulations of the Library, may be asked to leave the Library premises.

Library employees shall contact the Morristown Police if deemed advisable.

Any patron who violates the Library rules and regulations *may be denied the privilege of access to the Library by the Library Board of Trustees*, on recommendation of the Library Director. [*does not offer appeals process*]

I would like to talk to our city attorneys about a better way to deal with disruptive behavior at the library. I am unsure what is the best way to move forward. Should I try to get the ordinance removed and rely on library policy that has a trespass component or, should I try and get the ordinance redone?

Any advice would be greatly appreciated.

Sincerely,

Mary Danko

Mary Danko
Director
[802.865.7214](tel:802.865.7214) office
[603.276.0602](tel:603.276.0602) cell

235 College Street
Burlington, VT 05401

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Foundations: The Library as a Public Forum
(Library Access and Behavior Policies)

Prepared by:
Deborah Caldwell-Stone
Office for Intellectual Freedom
American Library Association

I. Foundations: The First Amendment and the Right to Receive Information

- A. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the government for a redress of grievances."
- B. The Supreme Court and other courts have held conclusively that there is a First Amendment right to receive information; the right to receive information is a corollary to the right to speak. When the Supreme Court considered whether a local school board violated the Constitution by removing books from a school library, it held that "*the right to receive ideas is a necessary predicate to the recipient's meaningful exercise of his own rights of speech, press, and political freedom.*" Board of Education v. Pico, 457 U.S. 853, 867 (1982).

II. The Public Forum: Free Speech Zones

A. General Public Forum Doctrine

- 1. A *traditional public forum* is a place held in trust for the public to use for free speech and other expressive activities, such as a town square or city sidewalk.
- 2. A *designated or non-traditional public forum* is a place not usually reserved for the public that is purposely set aside by the government for free speech and other expressive activities.
- 3. A *limited public forum* is a public forum created by the government for a particular expressive activity by a part of the public or all of the public.
- 4. The *non-public forum* is government-owned or controlled property that is neither a traditional public forum nor a place set aside as a public forum; for example, an office building, a military base, or prison.

- B. The First Amendment prohibits the government and its agencies from placing restrictions on free speech activities in a public forum, if those restrictions are based upon the content of the speech or the views conveyed by the speech. Perry Education Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 46 (1983).
- C. Content-based restrictions on speech activities in a public forum are considered unconstitutional unless the restriction can pass *strict scrutiny* review by a court. To pass strict scrutiny review, the government must demonstrate:
 - 1. that the rule is necessary to achieve a compelling government interest;
 - 2. that the rule is narrowly drawn or narrowly tailored to achieve the government's interest;
 - 3. that there are no less restrictive alternatives that will achieve that interest.

III. The Public Library As Designated Public Forum

- A. As a place set aside by the government for the receipt of information and services, the library is a designated public forum. Kreimer v. Bureau of Police, 958 F.2d 1242, 1259 (3d Cir. 1992)
 - 1. The Third Circuit held that the right to receive information "[i]ncludes the right to some level of access to a public library, the quintessential locus of the receipt of information."
 - 2. The Court also held that while a public library is a public forum for access to information, the library is not a public forum for other types of expressive activities (such as making speeches, distributing pamphlets, etc.) unless those activities are specifically authorized by the library.
- B. The Court also held that the library has the right to establish reasonable rules governing library use, and that libraries may regulate non-expressive activity designed to promote safety or efficient access to materials.

IV. Cases and Court Opinions

- A. Kreimer v. Bureau of Police, 958 F.2d 1242, 1259 (3d Cir. 1992). Richard Kreimer, a homeless man, was banned from the Morristown, New Jersey library for disrupting patrons and because his personal hygiene was offensive

to other patrons. The Third Circuit held unequivocally that the First Amendment protects the right to receive information and that libraries are designated public fora for access to such information.

- B. Wayfield v. Town of Tisbury, 925 F. Supp. 880, 884-85 (D. Mass. 1996). The district court held that a library card was a type of license giving its holder access to the library, deprivation of which infringed upon a liberty or property right. Thus, Mr. Wayfield was entitled to due process before having his right to enter the library taken away.

- C. Brinkmeier v. City of Freeport, 1993 U.S. Dist. Lexis 9255, *10 (N.D. Ill. July 2, 1993). A library patron was served with a notice prohibiting him from entering the library on the ground that he had harassed a library employee. Relying on *Kreimer*, the court held that library patrons have a First Amendment right to access the public library but that the right has some limits. The court held that Freeport's policy against harassment was unreasonable for the following reasons: (a) it was unwritten and broadly stated; (b) there was no definition of terms such as "harassing" and "intimidation"; (c) the expulsion was not tied to use of the library by other patrons or employees; (d) the policy did not have geographical limitations, in that it seemed to apply to conduct occurring outside the library; and (e) there was no formal or informal procedure for challenging denial of access to the library.

- D. People v. Taylor, 630 N.Y.S.2d 625, 164 Misc.2d 868 (N.Y. Sup.Ct. 1995). The New Rochelle Public Library has a ban against playing cards and board games in the library. Unsuccessful in his attempt to have the library lift its ban, defendant brought a chessboard into the library and played chess. Despite being requested by the director of the library and three police officers to leave, defendant refused. The court held that by remaining in the library with the chessboard despite being requested to put the board away and leave, the defendant lost his license and privilege of using the library. Thus, the court affirmed a conviction of trespass.

- E. Neinast v. Board of Trustees, 190 F. Supp. 2d 1040 (S.D. Ohio 2002), *aff'd*, 346 F.3d 585 (6th Cir. 2003). Mr. Neinast was evicted from the library for being barefoot. The district court held that the library was a limited public forum but that the shoe requirement was constitutional. The court held that "[t]he shoe requirement is a valid, content-neutral regulation that promotes communication of the written word in a safe and sanitary condition" because "[a]s evidenced by various incident reports, the Library's floor sometimes contains feces, semen, blood, and broken glass, all of which pose a significant danger to barefoot individuals." *Id.* at 1044. The appellate court agreed, holding that the shoe requirement was narrowly drawn to achieve

the goal of protecting barefoot patrons from harm that might come to them from materials found on the library floors and to protect the library itself from the potential of lawsuits and litigation costs if sued by a patron for injuries sustained while barefoot.

- F. Armstrong v. D.C. Public Library, 154 F. Supp. 2d 67, 75 (D.D.C. 2001). A patron was excluded from the library on the ground that his appearance was "objectionable." The district court held that the standard was unconstitutionally vague and overbroad: "It threatens to compromise access to information and ideas found within the Library's limited public forum by directly precluding, or otherwise discouraging, use of the D.C. Public Library system by persons that Library staff, in their discretion, find objectionable." *Id.* at 79. The court also held that the appearance rule violated the patron's due process rights: "Not only does the vague appearance regulation increase the risk of discriminatory decisions regarding library access, its arbitrary nature and application prevents the type of uniform decision-making required to provide fair notice of what hygiene conditions will be prohibited." *Id.* at 81.

V. Drafting Library Policies to Minimize Liability - General Policy Guidelines

- A. Policies must be crafted so they can be applied objectively.
- B. Policies must be enforced consistently.
- C. Policies must be reasonable and related to library use.
- D. Policies should provide for an appeal mechanism, even if that mechanism is informal.
- E. Policies should attempt to balance competing interests and avoid favoring the majority at the expense of individual rights, or allowing individual users' rights to interfere materially with the majority's rights to free, equal, and equitable access to library resources, services and facilities.
- F. Policies should avoid arbitrary distinctions between individuals or classes of users.
- G. Policies should not have the effect of denying or abridging a person's right to use library resources, services or facilities based upon arbitrary distinctions such as origin, age, background, or viewpoint.

- H. Once you have policies and procedures, follow them exactly. Do not ignore your policies.

October, 2009

American Library Association

Please do not publish or distribute without permission

oif@ala.org

DRAFT FFL Ordinance -7.12.17

Fletcher Free Library's behavior rules protect the rights and safety of library patrons and staff members, and preserve and protect the library's materials, facilities and property.

Definitions and scope

These behavior rules shall apply to all buildings, interior and exterior, and all grounds controlled and operated by the Fletcher Free Library (such buildings and grounds are hereafter referred to as the "premises") and to all persons entering in or on the premises.

Listed below are the library's behavior rules. Persons who violate these rules may be ejected from the premises and excluded from all library premises for the period of time listed below. Where authorized by Federal, State or local law, conduct violations may result in arrest. The library or library security may search purses, bags, parcels, briefcases and other packages for suspected theft.

Behavior rules

Any person who violates rules 1-5 while in or on library premises will be immediately ejected by library staff or law enforcement and excluded from all Fletcher Free Library premises without first being given a warning. Any person so excluded shall lose all library privileges for a period of up to three years, and the incident will be reported to the appropriate law enforcement agency.

1. Committing or attempting to commit any activity that would constitute a violation of any federal, state or local criminal statute or ordinance.
2. Directing a specific threat of physical harm against an individual, group of individuals or property. Violation of this rule will result in a minimum exclusion of one year.
3. Engaging in sexual conduct, as defined under ORS 167.060, including, but not limited to, the physical manipulation or touching of a person's sex organs through a person's clothing in an act of apparent sexual stimulation or gratification.
4. Being under the influence of any intoxicating liquor or controlled substance, including marijuana and marijuana derivatives. Controlled substance is defined in ORS 475.005.
5. Possessing, selling, distributing or consuming any alcoholic beverage (except as allowed at a library approved event), marijuana or any marijuana derivative.

Any person who violates rules 6-19 while in or on library premises will be given up to one warning at the discretion of library staff; then the person will be asked to leave the premises for the day. Subsequent offenses by that person will result in that person's

immediate ejection and exclusion from all Fletcher Free Library premises. Any person so excluded shall lose all library privileges for a period of up to one year.

6. Engaging in conduct that disrupts or interferes with the normal operation of the library, or disturbs library staff or patrons, including, but not limited to, conduct that involves the use of abusive or threatening language or gestures, conduct that creates unreasonable noise, or conduct that consists of loud or boisterous physical behavior or talking or entering staff-only spaces without permission.

7. Using library materials, equipment, furniture, fixtures or buildings in a manner inconsistent with the customary use thereof; or in a destructive, abusive or potentially damaging manner; or in a manner likely to cause personal injury to the actor or others.

8. Disobeying the reasonable direction of a library staff member or library security officer.

9. Soliciting, petitioning, or distributing written materials or canvassing for political, charitable or religious purposes inside a library building, including the doorway or vestibule of any such library building or in a manner on the library premises that unreasonably interferes with or impedes access to the library.

10. Interfering with the free passage of library staff or patrons in or on the library premises, including, but not limited to, placing objects such as bicycles, skateboards, backpacks or other items in a manner that interferes with free passage.

11. Leaving personal belongings unattended and/or placing personal belongings on or against buildings, furniture, equipment or fixtures in a manner that interferes with library staff or patron use of the library facility.

12. Bringing bicycles or other similar devices inside library buildings, including, but not limited to, vestibules or covered doorways if no bicycle rack is provided within that area.

13. Operating roller skates, skateboards or other similar devices in or on library premises.

14. Parking vehicles on library premises for purposes other than library use. Vehicles parked in violation of this rule may be towed at the owner's expense.

15. Smoking, of any kind and any use or preparation of tobacco, or any use or preparation of vaping devices or substances.

16. Consuming food or drink that creates a nuisance because of odor, garbage or spills. Non-alcoholic beverages in closed containers and small amounts of snack foods are allowed. Library Food and Drink policy can be found here:_____.

17. Bringing animals inside library buildings (with the exception of service animals), except as allowed at a library-approved event, or leaving an animal tethered and unattended on library premises.

18. Violating the library's rules for [Acceptable use of the Internet and library public computers](#), which are posted at every public computer table.

19. Taking library materials into restrooms if the materials have not been checked out.

Any person who violates rules 20-23 while in or on library premises will be given up to two warnings at the discretion of library staff; then the person will be asked to leave the premises for the day. Subsequent offenses by that person will result in that person's immediate ejection and exclusion from all Fletcher Free Library premises. Any person so excluded shall lose all library privileges for a period of up to six months.

20. Sleeping in or on library premises.

21. Improperly using library restrooms, including, but not limited to, bathing, shaving, washing hair, laundering clothes and changing clothes.

22. Using personal electronic equipment at a volume that disturbs others, including, but not limited to, pagers, stereos, televisions and cellular telephones.

23. Leaving one or more children under the age of 9, who reasonably appear to be unsupervised or unattended, anywhere in or on library premises. Children aged 9 or younger must be accompanied and adequately supervised by a responsible adult at all times. A responsible adult means someone over the age of 16 who is taking an active role in attending to the younger child.

Any person who violates rules 24 and 27 while in or on library premises will be excluded from the premises until the problem is corrected.

24. Entering library buildings with bare feet or a bare chest.

25. Disturbing others because of offensive body odor.

26. Bringing in bedrolls, sleeping bags, blankets, large bags, and or suitcases.

27. Adults loitering in the Youth and/or Teen area without a purpose.

Repeat Offenses

Individuals who repeatedly violate these Behavior Rules after having been previously excluded for library rule violations may face a longer exclusion than indicated in these guidelines. Repeat offenders need not violate the same rule to be subject to stricter enforcement and may not be warned that their behavior is inappropriate before being excluded.

Appeal Rights

APPEAL RIGHTS

YOU CAN APPEAL ANY OF THESE NOTICES BY FILING A WRITTEN APPEAL WITH THE LIBRARY DIRECTOR WITHIN 3 BUSINESS DAYS (DAYS THE LIBRARY IS OPEN) OF THE DATE YOU RECEIVED THE NOTICE. THE APPEAL MUST SAY WHY THE NOTICE WAS WRONGLY ISSUED OR WHY YOU SHOULD NOT BE BARRED FROM THE LIBRARY FOR THE TIME IT STATED. THE DIRECTOR WILL MEET YOU AND HEAR YOUR APPEAL WITHIN FIVE BUSINESS DAYS OF RECEIVING YOUR APPEAL.

IF YOU ARE UNHAPPY WITH THE DIRECTOR'S DECISION, YOU MAY ASK IN WRITING WITHIN FIVE BUSINESS DAYS OF GETTING THE DECISION THAT THE DIRECTOR SET UP A HEARING WITH AN INDEPENDENT APPEAL PANEL. THAT HEARING WILL BE HELD WITHIN TEN BUSINESS DAYS OF YOUR REQUEST. HEARING INFORMATION WILL BE PROVIDED WITH THE PANEL'S NOTICE.

These are examples of other library's behavior/appropriate use policies:

<https://multcolib.org/policies-manuals/behavior-rules-governing-use-multnomah-county-library>

<http://www.lapl.org/about-lapl/rules-conduct>

<http://www.spl.org/about-the-library/library-use-policies/rules-of-conduct>

<http://www.mdpls.org/policies/policies.asp#rulesofconduct>

<http://www.bpl.org/general/policies/acceptableuse.htm>

FRIENDS REPORT – June 24, 2017

REVENUE: May, June : \$15,000

(Major sources: Book Stall - \$1800, Summer Book Sale - \$1,000
Grants - \$12,000)

ORGANIZATIONAL SUPPORT: May, June: \$6,000

SRP T-shirts: \$5,400

EHO Expenses: \$600

OTHER:

- Summer Book Sale netted \$1,000.
- Progress continues in developing procedures for Friends' role in library fund raising activities.
- Non-profit Book Fair: Over 700 children' books were distributed to representatives from 6 local non-profits at this event offered for the first time this spring. Contacts were strengthened and interest in having this event more than once a year was expressed by those attending.