**Model Policy Concerning the First Amendment Right to Record**

The (name of local unit) recognizes that under Federal and New Jersey law, private citizens have some First Amendment rights to record public officials and employees performing their duties. This includes the right to enter open areas of public and semi-public buildings or property to record government officials and employees performing their duties. This right is not absolute and is subject to reasonable time, place, and manner restrictions. The purpose of this policy is to provide officials and employees with guidance in the event of being confronted with an immediate decision regarding a member of the public exerting First Amendment rights.

1. Under the First Amendment, the public has the right to:

A. Record public officials or employees at traditional public forums such as parks and public streets and in limited public forums such as at public meeting rooms.

B. Record public officials and employees while they are in areas of public buildings and public spaces that are open to the public.

C. Record public officials and public employees while they are in areas not open to public access so long as the person recording or the recording equipment itself does not trespass into closed areas.

D. Record law enforcement activities outside of closed areas such as officers during the course of performing an arrest, traffic stop or truck inspection.

E. Record hazardous or dangerous property conditions.

2. The right to record has been found not to exist:

A. While filming areas not generally open to the public that pose legitimate safety and security risks such as jails, holding cells or bathrooms.

B. When the recorder interferes with the official’s performance of their duties in or interferes with an investigation.

C. Recording a police conversation with a confidential informant.

D. Violating an ordinance prohibiting or restricting photography of private citizens for commercial resale without a permit.

3: The Safety Committee will review institutional security, signage, and other safeguards. Where necessary, the Committee will implement security sign-in, video surveillance, fencing, additional locks, and a system of government identification scan cards.

4. Best efforts will be made to post the following notice at the entrances of areas where the public is not permitted access:

“NOTICE AGAINST TRESPASS: You are entering a restricted Area. Unauthorized Access is strictly prohibited beyond this point. Any person who attempts to or accesses any area beyond this point without prior written permission from municipal officials, shall be declared a trespasser, and a criminal complaint will be issued against you for violating N.J. Law 2C:28-3b (N.J.S.A. 2C:28-3b) ‘Defiant Trespasser.’ Furthermore, any person having authorization or permission to enter any area beyond this point may be asked to leave at any time. Whenever asked to leave, any such prior authorization/permission of access shall be deemed revoked, and any person(s) refusing to leave shall be declared a trespasser and a criminal complaint will be issued against you for violating N.J. Law 2C:28-3b (N.J.S.A. 2C:28-3b) ‘Defiant Trespasser.’”

5. For areas of public property in that the public is permitted access, similar signage will be posted at all public entrance and exits advising of the days and times the property is open to the public and providing notice of the Defiant Trespasser statute.

6. In the event a member of the public attempts to trespass into restricted areas or otherwise interfere with governmental operations, public officials and employees will:

A. Always stay calm and professional. Be helpful, but do not go beyond what is required by law.

B. Politely request the individual to leave the restricted area or to move sufficiently away from the governmental activity and otherwise cease the interference.

C. In the event the individual refuses to comply with the request, the official or employee will refrain from engaging in any verbal confrontation or physical contact with the individual and immediately request assistance from law enforcement.

7. Anyone who engages in threats of physical violence, or a significant pattern of harassment may be removed from government property by police and charged with a “defiant trespass” offense in violation of N.J.S.A. 2C:18-3(b).

8. Whenever any person has been ejected from public property, a written “Notice to Person Ejected” will be provided to the person advising that they have been ejected from the property because they violated the defiant trespass statute and that any such re-entry is conditional upon obtaining written permission.

9. The Safety Committee will conduct a tabletop exercise or roleplaying drill for employees to prepare for a trespass or interference incident.

**I hereby acknowledge that I have read this policy:**

(name): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_