

**COUNCIL POLICY 16-2 GOVERNMENT ACCESS TELEVISION OPERATING
POLICY AND PROCEDURES, CHANNELS 14 & 15**

DISTRIBUTION: Mayor and Council
All Departments

SUBJECT: Providing regulations and procedures for permitted programming for Public Educational Governmental (PEG) access in accordance with Federal Communications Commission guidelines and the Muskogee Television Franchise Ordinance.

PURPOSE: The purpose of public access programming is to show city government at work. In this regard the City of Muskogee, Oklahoma, ("City") has access to PEG television channels on the Cable Channels 14 and 15 through its franchise agreement with Cebridge Acquisition, LLC dba Suddenlink Cablevision. Channels 14 and 15 are public assets provided by Suddenlink Cablevision as partial compensation for its cable franchise. These policies and procedures are intended to outline the circumstances under which other persons or entities may provide programming to be used on the City's PEG channels. This policy follows and complies with Federal Communications Commission guidelines for PEG television and the use of Channels 14 and 15 is strictly limited to this policy and may only be used for the purposes defined herein and are limited to "public purpose" as herein defined.

BACKGROUND: The City of Muskogee regulates the local cable television franchise agreement known as the Muskogee Television Franchise Ordinance. This ordinance allows providers of cable programming to use public rights of way for their cables and wiring. Additionally, provisions are made for two (2) PEG channels; channel 14, used by the City of Muskogee for governmental programming, and channel 15, used solely by Public Schools for education programming. The City has a duty and a legal requirement to establish regulations for the use of the PEG channels. The purpose of this Council Policy is to establish nondiscriminatory, non-commercial access to this channel without displacing or infringing on citizens rights to view local government in action by the transmission of city council meetings, various committee meetings and other programming by the city.

POLICY/PROCEDURES

Responsibility for Channel 14 Programming is assigned to the Information Technology Department, Department Director, under the guidance and supervision of the City Manager. The City Manager has authority to approve Cable Access User Contracts so long as the contract is in complete conformance with this policy.

Responsibility for Channel 15 Programming is assigned to Muskogee Public Schools, or any other school in the City of Muskogee

1. Definitions

- A. "Access Channel User" or "Access User" means any governmental body, educational institution, group, organization or other entity which makes proper application for and presents Access Programming over the City's government access channel.

- B. "Access Programming" means video and audio material provided by Access Channel Users on the City's channel, which programming concerns matters of interest to and/or is about the local Muskogee area.
- C. "Applicant" means any governmental body, educational institution, group, organization or other entity that has applied for access.
- D. "Public purpose" means an activity that serves as a benefit to the community as a body and at the same time is related to a function of government

2. City programming criteria

- A. Public Meetings - Live and tape replay of public proceedings and meetings.
- B. Elected Officials - Programs that allow the mayor and city council members to address citizens directly.
- C. Educational - Programs that show local government-at-work, explain and inform the public about City government programs, projects, issues, services or functions. Examples:
 - a. City news
 - b. Ballot questions
 - c. Budget information
 - d. Bond projects
- D. Promotional - Programs that encourage use of City facilities, programs, resources or further positive attitudes toward the City. Examples:
 - a. Pet of the Week
 - b. Public Service Announcements
 - c. Employment opportunities
 - d. Auction notices
 - e. Fire safety programs
- E. Service Information - Programs that provide news and information about City services, facilitate the use of those services or enhance customer service. Examples:
 - a. Park schedules and programs
 - b. Holiday schedules
 - c. Changes in service provision
 - d. Changes in rates, fees, costs and service hours
- F. Issues Oriented - Programs that advance a specific City initiative or address a citywide concern. Examples:
 - a. Public events
 - b. Household hazardous waste disposal
 - c. City-wide cleanup
- G. Training
- H. Events in the Council Chambers such as news conferences, awards ceremonies and town hall meetings.
- I. Only Public Service Announcements that meet the criteria of this policy will be considered by the City Manager. His determination is final on whether or not to air the announcement.
- J. City Calendar/Bulletin Board is for City of Muskogee information. Messages aired must relate to city services or policies, initiatives or concerns. Non-Commercial events held in city facilities such as but not limited to the Roxy and the Civic Center may be included at the discretion of the City Manager.

3. Operating Rules Governing THIRD PARTY PROGRAMMING

- A. A governmental body, educational institution, group, organization or other entity which operates within and/or serves the local Muskogee area is eligible to provide programming for the City's channel on a first-come, first-served, non-discriminatory basis. A request for use shall be made in writing and is subject to the availability of the access channel at the time and for the duration requested. The City shall make the final determination as to the date and time of any cablecast. In determining whether or not Third Party Programming may be aired on Channel 14 a review of the programming to determine applicability based on the following:
 - a. Relevance to City Government;
 - b. Of local interest and relevant to the community;
 - c. Meets broadcast quality standards;
 - d. Supports the mission of Channel 14; and
 - e. Meets Channel 14 programming criteria and content guidelines.
- B. The City's governmental access channel, Channel 14, is available 24 hours a day subject to the scheduling of City events. Live telecast of various City events shall take priority over any other scheduled broadcast. In the event that a program has been scheduled and is preempted by a City live broadcast the previously scheduled program will be broadcast at the next available time slot. If that is not acceptable to the applicant the City will refund the application fee, if any. In no event will the City be liable in any manner for failure to broadcast any program for whatever cause, including but not limited to preemption as set out above, weather, technical difficulties or the negligence of any city employee or agent.
- C. Any audio or visual material that promotes or is designed to promote the sale of commercial products or services is prohibited in connection with any Access Programming. Any program that is for the purpose of fund raising or that contains any material designed to elicit a response or any other solicitation of names or addresses that may be used for future fund raising activities is prohibited and will be rejected by the City in its sole and absolute discretion. Notwithstanding the above, "billboard" type notices announcing the source(s) of funding (if any) for the production of the program are permitted.
- D. In the event the City believes that a submitted program contains material proscribed pursuant to Paragraph 3(C), the City shall notify Applicant, who may edit such program or withdraw it. The City shall not edit any programming. The City shall be under no obligation to cablecast any Access Program that it reasonably believes to be in violation of this Policy.
- E. All recorded material must meet the technical specifications set forth in these Policies and Procedures.
- F. All Access User promotion that refers in any manner to the City is subject to prior written approval of the City.

4. Cable Access User Contract THIRD PARTY PROGRAMMING

- A. A "Cable Access User Contract" must be executed prior to any use of the City's channel.
- B. All program media must be submitted at least seven (7) days but not more than seventy-five (75) days, in advance of the desired date and time of the proposed cablecast.

However, if no prior request has been made for the time and date requested, the City may waive this time period.

- C. Applicants submitting programming should consult with the City at the time of program submission to determine whether their format is compatible with existing city equipment. After submission of the program, the City shall determine if such presentation meets acceptable technical standards and is compatible with the City's equipment. Programming which does not meet City's technical standards and/or compatibility requirements will be rejected. The City shall not be under any obligation to obtain additional equipment to cablecast any program.
- D. Cablecast requests and assigned time slots/periods are not assignable or transferable.
- E. After approval of the programming for broadcasting regarding the content and technology aspects of the submission but no later than seven (7) days in advance of the desired date and time of the cablecast, the Applicant must execute and file with the City a "Cable Access User Contract." Only one Cable Access User Contract needs to be executed per program no matter how many times a particular program is aired and is valid only for the city's fiscal year, July 1st through June 30th and must be renewed annually. A separate agreement must be submitted for each program for which access time is requested.
- F. For the purposes of determining Applicant's compliance with Section 3 of this Policy, The Applicant shall submit a recording of the program to City for its review. If the Applicant intends to use copyrighted material, Applicant is required to furnish proof of all appropriate rights and clearances for the use of such material.
- G. The City reserves the right to refuse to carry any program or presentation, or portion thereof, which does not comply with the provisions of this Policy or for which adequate rights to the material contained in the program and/or copyright clearances have not been obtained. However, permission to proceed shall not be construed to mean that City has acknowledged or concluded that Applicant has secured all necessary rights and/or clearances or that City assumes any responsibility for such programming.
- H. Programming that does not meet professional broadcast standards for picture, sound and or technical quality, or does not meet content guidelines will not be broadcast.
- I. Failure to furnish programs that meet the times allocated to the applicant may result in a suspension or revocation of the Applicants privileges.

5. Access User Liability

The City does not exercise editorial control over the content of any program produced by an Access User. Applicants assume all responsibility as producer and/or originator of any Applicant's programming cablecast on City and Suddenlink cable system. Access Users who produce and/or cablecast programs that violate federal, state or local laws, rules or regulations, or which infringe upon the rights of any person, corporation, partnership or entity, or constitute libel or slander, may be subject to criminal or civil penalties.

6. Questions

In the event a question or dispute arises regarding the applicability or interpretation of these rules, such questions or disputes shall be initially directed to City's Director of Information Technology. Further questions or disputes will be referred to the City Manager.

7. Reservation of Rights to Regulate Operations

Any violation of laws, these rules or any other written policies of City, may cause the City to withhold the use of its facilities from any person. All producers, providers, and users should be aware that they will be held accountable for their actions by law and these regulations. These rules shall be subject to periodic revision and change, without notice.

8. Cablecast Regulations

- A. Programs shall be exactly thirty (30) or sixty (60) minutes in length unless special arrangements for other program lengths are arranged in advance at the sole discretion of the City Manager or his designee. Only one program per media is allowed.
- B. The media must be delivered by 4:00 P.M. of the Wednesday before the week of cablecast. When the media is delivered, the complete series may be dropped off.
- C. Access programming time is reserved on a first-come, first-served basis. A signed Cable Access User Contract must be on file for each program or program series.
- D. Each edition of a program may be cablecast for a maximum of six (6) times during the 13-week period. If additional programs are not produced, City may assign the time slot to another access producer.
- E. If another access user would like to schedule its program at the time an existing program usually runs, and submits a written request during the first six weeks of a calendar quarter, the 13 week run, the existing user must relinquish that spot after the 13 week run. If there is no access user programming requests for the time the existing program usually runs during the first six weeks of the 13 week run, the existing time slot will be automatically renewed for the next 13 week period, unless the user notifies the City that it does not wish to continue with another 13 week time slot.
- F. Media must be picked up within 30 days after cablecast. City assumes no responsibility for the program media left longer than this. Media left longer than this may be destroyed at the option of the City.
- G. City is not responsible for media damaged during playback or lost or damaged during storage. For your safety and the safety of the City's equipment, Access Applicants should not submit masters, media worn from multiple uses, or media damaged by moisture, dirt or foreign substance.

9. Access Program Content Access programming must meet the definition of "public purpose".

- A. Access programs may not contain any audio or visual material that promotes the sale of commercial products or services. Access programs may not promote a commercial enterprise or product; suggest a particular company is better than others in the field, or contain a "call to action" with regard to a commercial item. The following practices constitute commercial advertising and are prohibited:
 - a. **No qualitative or comparative claims.** It is prohibited to claim any particular business or enterprise provides high quality products or services. It is also prohibited to claim that any particular product or service is better than some other product or service. Such claims are advertising and in direct violation of the law and of City policies.
 - b. **No direct inducements or calls to action.** It is prohibited to attempt to persuade viewers to try a product or patronize a business. If an Access Applicant is asking viewers to do something that will benefit the commercial enterprise of anyone, it constitutes advertising and is a violation of City policies.

- c. **No overtly promotional material.** Frequent and repeated mention of any name, address, or phone number, or mention of any other subject that reasonably can be interpreted by a viewer as primarily intended to benefit the regular business or commercial affairs of any person is commercial promotion or advertising. This violates the law and City policies.
 - d. **Discussion.** Generally speaking, if a guest is appearing as an authority on a particular subject and has attained his or her status as an authority by virtue of a commercial enterprise, it would be permissible to identify the guest and his or her relationship to this enterprise. This establishes the credibility of the guest with respect to the particular subject. See Section 11 below.
- B. Access programs may not contain advertising by or on behalf of, or in opposition to, candidates for public office.
 - C. Access programs may not contain a solicitation for funding.
 - D. Access programs may not violate FCC guidelines for access television.
 - E. Access programs may not advertise any lottery or information concerning a lottery.
 - F. Access programs may not broadcast promotional material concerning products or services presented for the purpose of any solicitation of money or other things of value.
 - G. Access programs may not contain material which constitutes libel, slander, invasion of privacy or publicity rights, unfair competition, violation of trademark or copyright or which might violate any local, state or Federal law.
 - H. Access programs may not contain material which creates an immediate danger of damage to property or injury to persons, the substantial obstruction of law enforcement or other governmental functions or services, the deprivation of any person by threat of force or physical action of a legal right or the disturbance of any person in the enjoyment of a legal right, or the creation of a public nuisance.
 - I. Access programs may not contain material which adversely affects the public good or the general order of the City.
 - J. Access programs that meet all other criteria may indicate the company or affiliation of a program guest no more than two times per program (beginning and middle) in a "lower third" to provide the guest with a credential or identify him/her as an authority on the subject being discussed.
 - K. The City reserves the right to require a sworn translation of the program's dialogue to accompany any access program that is produced in a language other than English.
 - L. If a program contains copyrighted material, City will require the Access Applicant to furnish proof that permission for use of such material has been obtained.

10. On-Air Conduct Involving Commercial Products

- A. City is a municipal corporation, and as such, both state and federal law prohibit commercialization of the governmental access channel. This is reflected in both the Cable Access User Contract and these Policies and Procedures.
- B. In a situation where a guest is appearing on a program to discuss a particular subject because he or she is an authority by virtue of his or her business, the producer may mention this person is in the business in order to establish credibility. For example, an attorney, doctor, accountant, or manufacturer may be speaking about issues in his or her profession or business. To control discussions so they do not become commercial promotions of that person's business or commercial enterprise, the producer must advise the guest of the rules to be followed.

- C. Producers will be permitted to give credit on-the-air to thank their benefactors. What follows are policy guidelines that will help producers avoid commercializing the governmental access channel. The business or enterprise credited must have provided specific, in-kind or financial assistance for the presentation of the programming. The producer must inform the City in advance of the circumstances of the donations, and the manner and form of the on-the-air credit must be approved by City.
- D. Access program credits must comply with the following:
 - a. On screen - Corporate or organization names may be printed in capital letters on a visible background to read: "Funding or service provided by _____."
 - b. Voice over - An audio credit will state the following: "This program was made possible by an underwriting grant from _____."
- E. No further description of the company or organization or its products or location will be allowed. City shall be informed of the identity or identities of any and all sponsoring companies or organizations at the time the application is filed for the use of the access channel.

11. Technical Specifications

Technical specifications for the submission of programming for Channel 14 will be as determined by the City of Muskogee Information Technology Director.

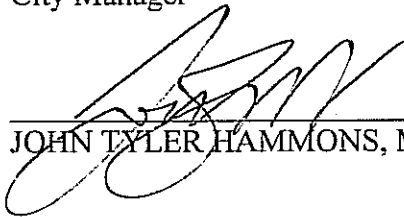
12. Violations

A violation of any of these rules may result in temporary suspension or permanent revocation of City of Muskogee PEG TV privileges.


REFERENCES: Title VI of the Communications Act of 1934, specifically the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as they may be amended, succeeded, supplemented or augmented by subsequent laws.

EFFECTIVE DATE: This policy shall be in effect on and after the 14 day of February 2011.

RESPONSIBLE DEPARTMENT: Information Technology Department
City Manager



JOHN TYLER HAMMONS, MAYOR

ATTES


PAMELA S. SMITH, City Clerk



Approved as to form and legality this 14th day of Feb, 2011.



JOHN H. VINCENT, City Attorney

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