

OPERATING GUIDELINES
Cape Elizabeth Television
Adopted April 10, 1989 (revised effective June 8, 2009.)

Introduction

Freedom of Speech

The First Amendment of the US Constitution says that there shall be no law which prohibits "the freedom of speech, or of the press; or the right of the people peaceably to assemble." This amendment is a cornerstone of democracy, ensuring that people will always have the right to speak their mind, and to shape their own future. Public access TV is a place where this principle is put into operation, ensuring that everyone has the right to speak and be heard.

What is Public Access TV?

Public access television came about with the rise of cable television in the late 1970s and early 1980s. In exchange for the rights to lay cable wires on public land, cable companies were required to donate a portion of their revenue to provide facilities and airtime to allow public comment. (Such agreements are negotiated on a town by town basis). The idea was to give voice to ordinary citizens who otherwise would not have access to any media outlets. In 1984, the Cable Franchise Policy and Communications Act prohibited cable operators from exercising any editorial control over public-access channels.

Cape Elizabeth Television (CETV) Mission Statement

CETV is responsible for administering the public access cable television services in Cape Elizabeth. Our purpose is to ensure the ability of Cape Elizabeth residents to exercise their First Amendment rights through the medium of cable television and to create opportunities for mutual communication, education, artistic expression, and other noncommercial uses of video facilities on an open, uncensored, and equitable basis. In providing services, we seek to involve the diverse communities of Cape Elizabeth in the electronic communication of their varied interests, needs, concerns, and identities.

ARTICLE I DEFINITIONS

- 1.01 CETV: Cape Elizabeth Television, including the facilities and equipment used to cablecast a visual/audio signal over the designated public access channel for Cape Elizabeth, Maine.
- 1.02 Coordinator: The individual responsible for operation and supervision of CETV and its staff.
- 1.03 Public Access User: Any individual or non-profit organization who resides or has offices within the Town of Cape Elizabeth, Maine, and who uses and/or watches CETV.
- 1.04 Town Manager: "Town manager" is the Town Manager of Cape Elizabeth, Maine
- 1.05 Non-profit organization: Any nonprofit corporation that qualifies as a charitable organization under section 501(c)(3) of the Internal Revenue Code, the Town of Cape Elizabeth, the Cape Elizabeth School Department, and other entities that support any of the foregoing organizations, such as booster clubs and parent associations.

ARTICLE II ADMINISTRATION

- 2.01 These operating guidelines are promulgated for the purpose of making CETV facilities and equipment available to all public access users on a fair and reasonable basis.
- 2.02 The town manager shall appoint and remove the coordinator.
- 2.03 Use of CETV facilities and equipment is restricted to public access users. All public access users must be qualified and approved by the coordinator before they may use CETV facilities and equipment.
- 2.04 After reading these operating guidelines, public access users will be asked to sign a statement of compliance. This statement is an agreement with CETV that the public access user understands and agrees to comply with all terms and conditions of these operating guidelines and the directions of the coordinator.
- 2.05 The use of CETV facilities and equipment shall be for non-commercial purposes only. Use of CETV facilities and equipment for revenue generating purposes will result in loss of public access user privileges.
- 2.06 There will be no charge for the use of CETV except as may be provided elsewhere in these guidelines.
- 2.07 All public access users are responsible for the repair and/or replacement of damaged CETV facilities or equipment. Public access users under the age of 18 shall have on file the signed permission of a parent or guardian to use CETV facilities and equipment which signed permission will also acknowledge that the parent or guardian agrees to take full legal responsibility for the actions of the minor, including, without limitation, reimbursement for repairs to or replacement of damaged CETV facilities or equipment.
- 2.08 Privileges to use CETV facilities and equipment may be suspended or revoked for any of the following:
- a. Violation of these operating guidelines or directions of the coordinator.

- b. Leaving CETV premises with equipment not properly checked out.
- c. Not returning CETV equipment at the agreed upon time.
- d. Returning CETV equipment in a condition which indicates negligence, damage or abuse.

2.09 Disputes involving the operation of CETV facilities or equipment or the implementation of these operating guidelines will be resolved as follows:

- a. The coordinator will attempt to resolve disputes based on these operating guidelines.
- b. Public access users can appeal the decision of the coordinator to the town manager. The town manager will, at the request of the public access user or the Coordinator, schedule a hearing within 30 days. All materials which the public access user or the Coordinator wish the town manager to review in connection with its decision on the dispute shall be submitted within 20 days after an appeal has been filed with the town manager. Until the town manager renders a decision, the coordinator's decision will be controlling. The decision of the town manager will be final. In the event these deadlines come after the air date for the program in question, the town manager shall make every effort to ensure that a hearing occurs on a timely basis and, if at all possible, prior to the program's air date.

ARTICLE III GENERAL OPERATING PROCEDURES

3.01 There will be no smoking, eating or drinking while using equipment within the CETV studio.

3.02 All programming produced using CETV facilities or equipment must be scheduled for cablecasting within 60 days after completion of the project.

3.03 All programs produced using CETV facilities or equipment must credit CETV as follows: "Produced through the facilities of Cape Elizabeth Television."

3.04 All videos produced using CETV facilities or equipment will become the property of CETV. The public access user grants CETV rights to use the video without further clearance from the producer.

3.05 Use of portable CETV equipment will be governed by the following procedures:

- a. A public access user wishing to reserve equipment must sign a Statement of Compliance and be approved by the coordinator. Equipment will not be issued unless the public access user has demonstrated to the coordinator competence in its use. After production needs have been assessed, the coordinator will schedule the check-out date and time.

- b. Any damage done to the equipment will be assessed at check-in and the public access user may be assessed for such damage at the Coordinator's discretion. The length of the check-out period shall not exceed 24 hours unless special permission is given by the Coordinator. The public access user may be fined \$5.00 for every hour the equipment is kept out past the check-in time.

- c. Public access users must provide their own videotape or other media.

3.06 Use of CETV editing equipment will be governed by the following procedures:

- a. Use of the editing system must be approved by and scheduled through the Coordinator.
- b. Public access users must sign in at the CETV studio before use of the editing system. Upon completion of the editing session, the public access user must sign out of the CETV studio.

ARTICLE IV CABLECASTING PROCEDURES

4.01 Responsibility for Content

The Town of Cape Elizabeth disclaims completely any responsibility for the content of and materials used in all live or recorded programming. The public access user shall bear sole responsibility for the content of and materials used in all live or recorded programming and must agree in writing to indemnify and hold the Town of Cape Elizabeth and Time-Warner Entertainment Company, L.P., its successors or assigns, harmless from any and all liability or other injury (including reasonable costs of defending claims or litigation) arising from any and all claims of any kind whatsoever concerning failure to comply with any applicable laws, rules, regulations, or other requirements of local, state, or federal authorities, libel, slander, invasion of privacy, infringement of common law or statutory copyright or trademark, breach of contractual or other obligations owing to third parties, or any other injury or damage, in law or equity, which in any manner arises out of use of CETV facilities or equipment.

4.02 Talent Release Forms & Clearances

The public access user agrees to make all appropriate arrangements with and to obtain all clearances from broadcast stations, networks, sponsors, music licensing organizations, performers, and "without limitation of the foregoing, any and all other persons (natural and otherwise) as may be necessary to cablecast programming over CETV." The Public access user shall supply copies of all such licenses, clearances, or agreements to the Coordinator.

4.03 Program Content Restrictions

a. The following restrictions apply to all public access programming. Programs may not contain:

- 1) Solicitation, advertising, bartering or promotion of commercial products, services, or transactions;
- 2) Material that is slanderous, libelous, an invasion of privacy, or unlawful;
- 3) Material that is obscene (defined as material that the average person, applying contemporary community standards, would find that, considered as a whole, its predominant appeal is to the prurient interest in sex, and that, considered as a whole, lacks serious literary, artistic, political, and scientific value.);
- 4) Material concerning lottery information, gift enterprises, or similar schemes;

5) Unlawful use of material requiring union residuals or other payments including but not limited to talent and crew;

6) Unlawful use of material that is copyrighted or subject to ownership or royalty rights, right of publicity, or other payment.

b. If a program is likely to be offensive to some audiences, or is of a mature or adult nature, then the program producer must inform CETV when requesting cablecast time. Programs including mature content will be scheduled in a late-night time slot (11p.m. – 6 a.m.). Mature content may not be presented for cablecast, whether live or pre-recorded, at any other time. The intent of this policy is not to discourage free expression but to achieve a balance between the First Amendment right to free speech and the desire of cable viewers to be protected — and to protect their children — from unwanted viewing of mature content through the application of reasonable time, place and manner constraints. Programs with mature content may be required to include appropriate viewer advisory messages.

c. Political advocacy is encouraged on CETV, except during the five day period preceding an election. During this time, only "debate programs" will be scheduled. "Debate programs" are programs to which all candidates or referendum advocates have been invited and the format is organized fairly, meaning that all candidate or referendum viewpoints have an equal opportunity to speak/be heard and comparable amounts of time. The bulletin board may not be used to advocate for candidates for political office.

d. Commercial Programming Restriction

1) Commercial programming is strictly prohibited on CETV. As noted above, programs may not contain solicitation, advertising, bartering or promotion of commercial products, services or transactions. Programs may not contain commercial telephone numbers or websites anywhere within the program except as "Program Credits for Contribution of Goods and Services" (see below), nor may programs contain information about purchasing a product or service.

2) Time on the public access channels is available free of charge. Channel users may not require compensation from individuals in exchange for appearing on a public access channel. Furthermore, channel time may not be bartered or sold.

3) Solicitation of funds during programs is limited to non-profit organizations. Only Cape Elizabeth-based non-profit organizations may fundraise. Such fundraising may include credits to commercial sponsors including recognition of items donated for use on the program. The following guidelines apply to all credits for contributors:

-Credit must appear at either the beginning or end of the program;

- Credit may be aural, visual or both;

- Credit may include a logo;

- Credit may include a name, address, and phone number;

- Credit may include a phrase describing the business of the contributor and the nature of

the contribution; and

- Credit may not contain any qualitative or promotional information except in an auction environment with the announcer seeking to “bid up” an item.

4.04 Program Formats & Labeling

- a. All programs shall begin and end with a minimum of 10 seconds of black.
- b. All tapes or other media must be clearly labeled and identified.

4.05 Review of Programming

All videos submitted by public access users will be reviewed for technical quality. Videos played on the system must be able to deliver a clear, unbroken signal and must otherwise comply with these operating guidelines.

4.06 Scheduling

a. No program will be scheduled for cablecasting until an application for cablecasting has been submitted to the coordinator and a statement of compliance signed by the public access user within the past year is on file with CETV.

b. All public access user programs will be scheduled for cablecasting by the coordinator. Programs will be scheduled according to the specific programming block for which they are best suited. Although the coordinator will do his or her best to see that the program is aired as scheduled, CETV reserves the right to change the schedule or delete scheduled programming.

c. A public access user must fill out separate applications for each program to be cablecast. If air time permits, the program will be scheduled to air at least twice in one week.

d. CETV programming will be scheduled according to the following criteria:

- 1). Program priority level. (See Priority of Programming).
- 2). Format and length.

Using these criteria, the coordinator will schedule the program and the video will be placed in the current cablecast library.

e. All program scheduling must be completed at least one week in advance of the air date.

ARTICLE V PROGRAMMING GUIDELINES

5.01 Priority of Programming

Program scheduling decisions for CETV will be made by the coordinator using the following priorities as a guide.

- a. Live meetings of the Cape Elizabeth Town Council, the Cape Elizabeth School Board, the Cape Elizabeth Planning Board and Cape Elizabeth Zoning Board of Appeals.
- b. Live meetings of other Cape Elizabeth committees, boards, or commissions or meetings of other committees, boards, or commissions the agenda for which has a clear impact on a substantial number of Cape Elizabeth citizens.
- c. Live cablecasts of special CETV productions that deal with current events in Cape Elizabeth.
- d. Live cablecasts of school events, including sports, provided that the school has first acquired and uses its own live production capability.
- e. Repeat cablecasts of programming of the type described above in priorities a through d, above.
- f. Miscellaneous cablecasts, including but not limited to:
 - 1) other Cape Elizabeth school system and cultural events;
 - 2) educational material;
 - 3) videos on loan from other public access stations;
 - 4) special interest programming, for example, material pertaining to the handicapped, senior citizens, Cape Elizabeth history, or gardening.
- g. The Community Bulletin Board.

5.02 "Live" Programming

- a. All "live" programs must be scheduled in advance. The application for cablecasting must indicate the content and nature of the proposed "live" program. Cablecasting is dependent upon the availability of personnel to operate CETV.
- b. If the "live" program has been approved for cablecast, the public access user must reserve all necessary equipment through the coordinator. If the equipment is available and the public access user has demonstrated to the coordinator that the arrangements necessary for the production have been made, the "live" program may be scheduled on CETV. The coordinator has the right to cancel or reschedule a "live" production.

5.03 Series Programming

- a. A series is a program produced on a daily, weekly, biweekly, or monthly basis. It contains material on the same topic, airs under the same title, and is produced by the same producer.
- b. Regularly scheduled "series" time slots will be allocated at the discretion of the coordinator, providing that ample additional time remains available within predetermined scheduled programming blocks for other programming.

c. Series will be scheduled for a maximum of six weeks, after which time a new application for cablecasting will be required. These re-applications will be considered along with other programming requests. If a series producer fails to submit new, original programming for more than two consecutive weeks, the coordinator may, at the coordinator's sole discretion, assign the remaining portion of the series time to another program.

d. In order to reserve a weekly time slot, a public access user must have four programs of the series completed and ready to cablecast. It is mandatory that public access users have two programs completed in advance and delivered to CETV for cablecast at all times.

5.04 Community Bulletin Board

The Community Bulletin Board will run every day and will include a time/date generator and messages which are, in the estimation of the coordinator, of interest to the Cape Elizabeth community. The Community Bulletin Board will be updated periodically throughout the week. Public access users wishing to have non-profit announcements cablecast over CETV must fill out a CETV Community Bulletin Board request form and submit it to the coordinator at least five (5) days in advance for scheduling at the coordinator's discretion. CETV will not be responsible for mistakes made on the Community Bulletin Board.

ARTICLE VI UNDERWRITING POLICY

6.01 CETV underwriting policy is intended to assure proper use of Cape Elizabeth's public access channel and to preserve CETV's non-commercial status. Local residents and businesses, school departments, or other agencies or organizations may underwrite CETV programming and CETV may acknowledge such support.

6.02 Underwriting support can be used for set materials (e.g. chairs, tables, plants, backgrounds, carpets or equipment), videotape or other media used to produce the program, promotional expenses (e.g. print, radio or television ads, news releases), and on a limited case-by-case basis, post-production expenses (e.g. art cards, computer graphics, audio music beds and special effects). Underwriting support cannot be used for production labor including producer or director's fees, talent fees, studio time or cablecasting time.

6.03 All productions using underwriting in any form must have an executed Underwriting Agreement. The public access user will be responsible for all underwriting accountability. The coordinator will monitor all underwriting activities. Underwriting agreements will be retained on file by CETV as a permanent record of the transaction.

6.04 The standard underwriting acknowledgement shall include the following voice-over or visual or both: "The following (or preceding) program has been brought to you in part by..." The underwriting acknowledgement may also include the logo of the business, school, individual or agency, or their name character-generated on the screen.

ARTICLE VII AMENDMENTS TO CETV

7.01 All policy changes approved by the town manager shall be submitted within 30 days to the Cape Elizabeth Town Clerk for inclusion on the town council agenda.

7.02 All policy changes submitted by the town manager to the town council for approval shall become effective upon approval by a majority vote of the town council or on such other date fixed by the town council.