

# Town of Amherst New Hampshire

## Community Access Television

### Policies & Procedures

Adopted by the  
Amherst NH Communications Infrastructure Committee

*Latest Revision Adopted April 12, 2005*

*Town of Amherst*






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# Town of Amherst

## Community Access Television Channels

### Policies & Procedures

#### **Mission Statement:**

*"The Amherst Community Access Television Channel is dedicated to providing equal access to the citizens of Amherst for use of cable television as an outlet for expressing their creative and intellectual freedom."*

#### **Overview:**

Use of the Town of Amherst's community access television channel is considered a democratic right of responsible Amherst citizens. AMHERST COMMUNITY ACCESS TELEVISION (ACAT) offers users free usage of television equipment for the production of community programming.

Like citizenship itself, community access demands certain standards of behavior. With the intention of keeping restrictions to a minimum, these pages spell out the standards for ACAT. Please accept and abide by our rules and regulations, in the spirit of cooperation that makes ACAT a communication opportunity for everyone. ACAT rules are administered by the Amherst Communications Infrastructure Committee.

#### **I. DEFINITIONS:**

- A. **ACAT: Amherst Community Access Television.** Cable channels dedicated for use by non-profit organizations, persons or groups residing within the Town of Amherst's franchise area on a first-come, non-discriminatory basis including race, creed, sex, religion or general consent of programming. The channels are also used for governmental and educational programming.
- B. **Communications Infrastructure Committee (CIC):** the committee appointed by the Amherst Board of Selectmen to advise on the administration of the cable television franchise agreement with particular emphasis on all aspects of community access, local programming and the town's uses of cable television. The CIC meets on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of every month. All meetings are open to the public.
- C. **Local Resident Producer:** the person, group, organization or other entity who conceives of the program idea and manages the production of the program (whether the production is done by the local resident producer or another crew).
- D. **Advertising Material:** any material in a program designed for the sale of commercial products or services, or the solicitation of donations, remuneration, or barter.
- E. **Obscene, Indecent and/or Libel Material:** any material in a program and/or presentation that would be deemed obscene, indecent or libel by local community standards or by standards established by any federal, state or local regulation or law applicable to cable television.
  - 1. **Obscenity:** the Supreme Court has defined obscenity as "works which, taken as a whole, appeal to the prurient interest in sex; which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political, or scientific value."

2. Indecency: in a 1992 policy statement, the Federal Communications Commission defined indecency as "Language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs."
  3. Libel: Defamation by publishing or broadcasting that may expose its subject to public hatred, shame or disgrace.
- F. **Cablecast:** to send video and audio signals through a coaxial cable television system instead of traditional broadcast (over-the air) systems.
- G. **Copyright:** the exclusive legal right of publication, duplication, imitation, or sale of literary, musical or artistic work. All necessary copyright clearances are the sole responsibility of the access user.
- H. **Lottery/Raffle:** any promotion, contest or other program that involves the elements of prize, chance and consideration, which is considered a lottery/raffle under applicable local, state or federal laws.
- I. **Who May Participate:**
1. ACAT equipment and facilities are owned by the Town of Amherst and are reserved primarily for use by Amherst residents. Persons eligible to become access users and use ACAT equipment and facilities include:
    - All Amherst legal residents, defined as "residing within the Town of Amherst"
    - Members and employees of commonly recognized local non-profit organizations that serve the Amherst community.
  2. Production facilities and equipment will be made available to ACAT access users on a first-come, first served, nondiscriminatory, non-monopolistic basis, provided they:
    - Have successfully completed the necessary required courses and passed the evaluation given at the conclusion of the course; OR can demonstrate the basic operation of the requested equipment,
    - Are registered as either a volunteer, local resident producer or sponsor of non-local programming,
    - Complete and submit the required documents for use of equipment and facilities,
    - Obey all the rules and regulations adopted by the Amherst CIC.
  3. Use of ACAT equipment and facilities must be for the purpose of recording and preparing programs for cablecast on ACAT. Use of community access equipment for personal use, financial remuneration or commercial purposes is prohibited.
  4. ACAT invites younger residents to learn community television production techniques, and welcomes their participation in the community access process. It is necessary for access production applicants between the ages of 16-18 years of age to have their parent or guardian co-sign all required documents. The co-signer is then responsible, along with the user, for all costs which may be incurred as a result of damage to the facilities or equipment, other than normal wear and tear. Residents under the age of 16 wishing to use the ACAT facilities can do so only when in the presence of their parent or guardian. Parents or guardians are then responsible for the actions of their child and for all costs that may be incurred as a result of damage to the facilities or equipment, other than normal wear and tear.

## **II. Producing a Program:**

**A. Prerequisites:** After attending and successfully completing the necessary training classes required (if any), access users may begin producing a program. ACAT cablecast schedules are based upon series programming. Whenever possible, ACAT encourages access users to produce programming on a regular basis, however, one-time or special programs are also accepted.

**B. Responsibilities:** Local resident producers are responsible for gathering their own volunteer crew and equipment in producing their program. ACAT staff can assist with providing producers with the proper equipment and passing on the volunteer list.

### **C. Videotape:**

1. Local resident producers are responsible for providing their own videotapes. ACAT will provide a list of local vendors and/or mail-order houses that carry videotape. ACAT strongly encourages producers to use new videotapes for edit masters. Final edit masters set for cablecasting can have only one program per tape.
2. Any program submitted for cablecast on ACAT must be on a VHS or DAT videotape (DAT preferred)
3. Each tape submitted for cablecast on ACAT must include:
  - a completed ACAT cablecast request form
  - labels on the tape and sleeve
  - name of the program
  - name & phone number of producer
  - total running time of the program (TRT)
  - date program was completed

### **D. Sponsorship & Underwriting:**

1. Local resident producers may choose to solicit underwriting funds for documented production expenses. Such expenses may include but are not limited to: mileage, food, production supplies and other materials.
2. Public access producers or their crew may not receive financial remuneration in underwriting proposals.
3. Sponsor(s) name, address and phone number may be listed at the beginning and end of the programs with a voice-over stating, "*This program has been made possible through the support of <name of sponsor>.*" No slogans, logos or other representations of the sponsor(s) or products of the sponsor(s) will be permitted. A total of 2:00 minutes will be allowed per program for mentioning sponsors.
4. Before soliciting any underwriting proposals, local resident producers must present a written proposal to the ACAT board for its approval.
5. ACAT may also choose to approach local businesses or organizations to sponsor or underwrite special ACAT produced programs. In such ACAT sponsored programs, sponsor(s) information will be displayed as listed above.

### **E. Non-Locally Produced Programs (Imported):**

1. Non-locally produced public access programs (programs produced outside the Town of Amherst) may be cablecast on ACAT provided the following:

- a. The program is sponsored by a legal resident of Amherst and meets all the technical requirements (see Section C, #3 above) and administrative requirements as listed within these guidelines,
  - b. The community producer sponsoring the program completes all necessary scheduling and cablecast agreement forms on a regular basis,
  - c. The community producer obtains all necessary rights to the program. This includes all necessary literary, artistic, intellectual, performing, and music rights as well as all necessary clearances from the owners of licensees of such material. Community producers must be able to document, in writing, that the cablecasting of such material does not violate the rights of third party.
2. Scheduling non-locally produced programming: (SEE SECTION V. SECTIONS D & F)

#### ***IV. Program Content:***

- A. Local resident producers are fully responsible for the content of the programs that they produce. This responsibility includes libel, defamation, copyright, and any other legal accountability. Criminal prosecution and/or civil lawsuits can result from illegal use of community access. Applicants are responsible for insuring that programming submitted is not obscene, libelous, or otherwise prohibited by law. ACAT staff are neither qualified nor permitted to advise producers about the legality of questionable material.
- B. In accordance with the Free Speech protections of the First Amendment, ACAT does not censor programs. Programming rules are not intended to exercise editorial control, but to keep ACAT a fair and open forum for all local residents. Neither ACAT, the Town of Amherst, the CIC or Adelpia Cable accept any responsibility for the content of access programs, except those produced or sponsored by ACAT. ACAT's response to individuals with complaints about access programming include:
  1. Referring complainant to the Hillsborough County District Attorney (when the program is alleged to be obscene or otherwise illegal); or
  2. Advising the complainant of his or her rights to present opposing views in a "response program" that would also be cablecast on ACAT.
- C. Keeping with the concept that ACAT is for non-commercial purposes only, the following commercial uses are also prohibited on the channel:
  1. Any material designed to blatantly promote the sale of products, services, trade, business or persons.
  2. Copyrighted materials.
  3. Lottery or lottery information.
  4. Direct or indirect solicitation of funds.
- D. Use of the ACAT logo or name in any context is prohibited without the written consent of the Amherst Communications Infrastructure Committee.

#### ***V. Scheduling a Program:***

- A. All local resident producers are required to complete a cablecast request form prior to submitting each program for the ACAT broadcast schedule. All programming must be submitted to ACAT and cleared for scheduling at least three (3) working days before broadcast.

- B. ACAT's live coverage of regular local government meetings will always preempt any regularly scheduled programming
1. Amherst Board of Selectmen
- C. Community Producers submitting a one-time or special program for broadcast may request programming time using the Cablecast Request form. All programs submitted for broadcast on ACAT will be run a minimum of one (1) time on the channel. Any requests for additional replays of the program must be submitted with subsequent cablecast request forms.
- D. ACAT staff is responsible for coordinating the scheduling of ACAT programming. Scheduling will be available on a first-come, first-serve basis keeping the following priorities:
1. Live governmental meetings and special ACAT produced programs,
  2. Regularly scheduled ACAT produced programming,
  3. Regularly produced local programming,
  4. NEW ACAT produced or sponsored programming,
  5. Non-locally produced programming.
- E. Series Programming: In many situations, access users are producing programs in a series. Once a local resident producer completes six (6) shows in a series, they will qualify for a regular timeslot on the channel. Producers may select any available time from the existing schedule on a first-come, first serve basis. Producers will continue to hold this timeslot until any of the following occurs:
1. The producer chooses to discontinue producing a program, (shown by not submitting a new program after three weeks),
  2. The producer decides to change the timeslot to a different time (See Clearing of Boards below). Local resident producers have the responsibility to contact ACAT staff to notify them of any series changes. ACAT staff reserve the right to replace series programming that have not scheduled new programs after three weeks.
- F. Clearing of the Boards to ensure fair and equitable access for all access users, whenever needed, ACAT staff will conduct a "Clearing of the Boards." This exercise clears the program schedule of all community-produced regular timeslots, and allows all producers to reschedule new or existing times on a lottery basis. Once scheduled, the new timeslots will remain until ACAT staff determines there is enough demand to conduct another "Clearing of the Boards." Series programming will be scheduled keeping the following priorities:
1. Local programs produced by local resident producers,
  2. Non-local programs sponsored by local residents.
- G. ACAT requires that all tapes submitted for broadcast must be turned in 48 hours prior to when it is scheduled to air. Failure to meet this deadline may result in a program not being broadcast. Whenever possible, ACAT staff will attempt to schedule a repeat program. If after three weeks a new program has not been submitted to be broadcast, ACAT staff reserve the right to reschedule other programming in its place.

## **VI. Special Programming Considerations:**

- A. First Amendment Concerns:** Local resident producers are urged to be familiar with the following types of speech unprotected by the Constitution which traditionally have not received full First Amendment protection: obscenity, "fighting words", defamation, libel and words which create a clear and present danger of imminent lawless action.
- B. Discretionary Programming:** ACAT reserves the right to schedule programs containing content that may be inappropriate for children for cablecast at times when young viewers are less likely to watch television.
- C. Disclaimers:** All public access programs are required to include at the beginning of the program the standard ACAT "Local Resident Producer" introduction and disclaimer (see below). In special situations, ACAT staff may require the producer to include additional cautionary messages at the beginning and/or end of programs that contain material which could be offensive to some viewers. Any such cautionary message will explain the nature of the program in a non-judgmental way so that viewers can decide whether to watch the program. If appropriate, the disclaimer may also state that parties with opposing views may contact ACAT to produce a rebuttal program.

*Local Resident Producer Disclaimer: The following program is locally produced by <name of producer>. The content of the program is the sole responsibility of the producer and does not reflect the views of Amherst Community Access Television, the Town of Amherst, the Amherst Communications Infrastructure Committee or Adelphia Cable.*
- D. Sample Graphic Material Warning:** In situations of extreme graphic or otherwise sensitive material, ACAT staff may require public access producers to provide an additional text disclaimer after the standard "Local Resident Producer" introduction and disclaimer at the beginning of the program. This text disclaimer would state:

*This program contains graphic or sensitive material, which may be offensive to some viewers. Parental discretion is advised. The contents of the following program are the sole responsibility of the local resident producer and do not reflect the views or policies of Amherst Community Access Television, the Town of Amherst, the Amherst Communications Infrastructure Committee, or Adelphia Cable. Those parties wishing to produce a rebuttal program may contact the Amherst Communications Infrastructure Committee.*
- E. Generally Offensive Programming:** These guidelines are not intended to discourage free expression, but rather to achieve a balance between the First Amendment right to free speech and the cable subscriber's right to be protected from unwanted viewing of offensive material. ACAT is a public forum which provides first-come, first-served public access and whose program schedule is managed by reasonable time, place and manner constraints. ACAT policy is not to cablecast programs which are obscene under federal or New Hampshire law. ACAT will cablecast programs that are identified as "generally offensive" under the following guidelines. The Amherst Communications Infrastructure Committee expects that these guidelines will change in the future based upon actual experiences with specific programs.
- F. Guidelines for determining "Generally Offensive" Content:** A program, which contains any of the following, will be considered to be "Generally offensive to some audiences." It will be cablecast with a



viewer warning/disclaimer and in a "Late Night" slot (between midnight and 4:00 a.m.). Series producer's programs that must be run in a "Late Night" slot will forfeit all other regular weekly replay time(s) until the program is not identified as a "Generally offensive" program.

1. Language

- Slang, vulgar or colloquial expression which refers, in the context in which it is used, to sexual intercourse, masturbation, anal or oral sexual contact, to human genitals, or to human elimination; or
- Abusive language against men or women, ethnic groups, religious groups, sexual orientation, or persons with disabilities.

2. Violence

- Extreme acts of violence against people; or
- Depictions of extreme violent acts in dramatic and/or poetic manners.

3. Graphic Images

- Images or depictions of:
- human or animal elimination and/or mutilation;
- graphic medical surgical procedures; or
- abuse against men or women, ethnic groups, religious groups, sexual orientation, or persons with disabilities.

4. In addition to the foregoing factors, ACAT staff will also have the authority to determine classification as generally offensive based on the items, which may not be listed above. If a live program is intended for a general audience, and measures are taken to prevent indecent language to no avail, scheduling of replays as adult programs can be avoided by editing out vulgarities. If indecent language cannot be deleted, then the producer must add a viewer disclaimer to the program and any subsequent replays will occur in "Late Night" time slots. Disclosure of "Generally Offensive" Content: Each local resident producer is responsible for certifying on the ACAT Cablecast Request Form whether their programming contains any "generally offensive" material according to the above guidelines. Should any producer fail to properly disclose the "generally offensive" nature of the program on the Cablecast Request Form, ACAT has the right to suspend or terminate the producer's privileges. Any suspension or termination of privileges will include both the producer and all other persons associated with the production of the program.
- **LOCAL RESIDENT PRODUCER DISCLAIMER:** All ACAT programs are required to include at the beginning of the program the ACAT "Local Resident Producer" introduction and disclaimer with both audio and video for 30 seconds – section VI-C above.
  - **VIEWER WARNING DISCLAIMER:** In programs that have been identified to include "generally offensive" material, local resident producers will include a viewer warning disclaimer that immediately follows the standard Local Resident Producer Disclaimer stating: *This program contains graphic or sensitive material, which may be offensive to some viewers. Parental discretion is advised. The contents of the following program are the sole responsibility of the local resident producer and do not reflect the views or policies of Amherst Community Access Television, the Town of Amherst, the Amherst Communications Infrastructure Committee, or Adelphia Cable. Those parties wishing to produce a rebuttal program may contact the Amherst Communications Infrastructure Committee.*

ACAT retains the right to place a viewer warning disclaimer before any program.

**G. Political Candidates:** Political candidates can utilize the channel as like any other access user, provided they abide by the ACAT Policies & Procedures. In addition, the Amherst Communications

Infrastructure Committee feels it is important all candidates are aware of the options for using this channel. Therefore, the committee has provided the following information for all candidates running for office:

1. Political candidates can appear on ACAT programming by:
  - Appearing as a guest on a program;
  - Participating in a televised candidate forum;
  - Producing and appearing on their own program;
  - Having a resident of Amherst "sponsor" their taped program to be run on ACAT.
2. ACAT staff WILL assist political candidates by:
  - Helping candidates find producers to have them on as guests;
  - Scheduling programs to be cablecast on ACAT.
3. ACAT staff WILL NOT do the following:
  - Produce any programming for political candidates, campaigns or referenda, (with the exception of candidate forums);
  - Provide special "rebuttal" time for candidates;
  - Make special scheduling changes-- (i.e.- bumping a regular program to make room for a political rebuttal program two days prior to an election).
4. Other important issues regarding political candidates and their usage of ACAT:
  - Candidates may appear on ACAT programming up to the election day;
  - There are no limits to how often candidates may appear on programming;
  - Candidates and/or producers take full responsibility for their words or actions while appearing on a program - ACAT, the Town of Amherst and Adelphia Cable are not held liable for the content of any programs;
  - ACAT is not required to provide "equal time" provisions unlike broadcast television;
  - ACAT programming consists of series (weekly programs with community producers), and non-series (without a guaranteed timeslot). Series programs have a permanent timeslot and can drop a new program in at any time, while non-series programs need to be scheduled at least three weeks in advance;

## ***VII. Denial of Access Privileges/Appeals:***

**A. Violations:** Non-compliance of ACAT policies and procedures will not be tolerated. The following disciplinary steps will be taken for offenders:

1. First Violation: Written warning to access user detailing access violation with warning of possible suspension of access privileges for up to one year.
2. Second Violation: Immediate temporary suspension of access privileges until the matter is reviewed by the Amherst CIC at their next regularly scheduled meeting. Those wishing to appeal the suspension must appear at this meeting and present their request for appeal in writing 24 hours prior to the meeting. All documents to be presented by appellants must be presented with their request for appeal. If at this meeting the CIC upholds the violation, the access privileges of the access user in question may be suspended for up to one year.
3. Those disagreeing with any suspension decision may appeal to the Amherst Board of Selectmen within thirty days of receiving their suspension decision letter by submitting a written request to the Town Clerk containing the explicit reasons based on ACAT policy for their appeal.