

Office of Selectmen

Town of Moultonborough
6 Holland Street - PO Box 139
Moultonborough, NH 03254
(603) 476-2347

Policy Statement # 27

Access to Public, Education & Government (PEG) Channel

1.) Authority:

In accordance with RSA 31:39 and its role as the Governing Body, the Board of Selectmen (the "Board") has the authority to adopt ordinances and statements of policy to order its affairs and guide the administrative functions of the corporate body politic of the Town of Moultonborough and further, in accordance with RSA 53-C, it has entered into the Moultonborough Franchise Agreement (the "Agreement") to establish and control the terms of cable television services within the geographical limits of the Town. Said agreement has been determined as not being inconsistent with applicable Rules and Regulations of the Federal Communications Commission.

2.) Purpose:

This policy is to prescribe uniform procedures to allow access to the so-called Public, Education, and Government Channel(s) (the "PEG Channel") provided under the Agreement which are intended to provide a non-commercial opportunity to (a) the governmental and educational institutions to inform the public of their activities and matters of public interest, (b) the general public for an outlet to express their creativity and free speech rights, (c) present a wide range of programming that expresses the diversity of perspectives, and (d) recognizes that with rights come certain responsibilities and accepted behaviors.

3.) Administration:

This policy shall be administered by the Town Administrator, or his designee, on behalf of the Town of Moultonborough (the "Town") who shall submit an annual report to the Board on the numbers and types of programs authorized and aired. All inquiries and complaints should be directed to him at

Moultonborough Town Administrator
PO Box 139 – 6 Holland Street
Moultonborough, NH 03254

4.) Definitions:

- a) Access User: Any party seeking to air materials over the Town's PEG Channel.
- b) Commercial: Advertising and promotional material, including any program disguised as a so-called "Infomercial", designed to promote the sale of commercial products or services by telling about promoting or praising a product, service, or business, in such a manner as to make people want to buy; as intentionally showing business or product names, logos, or symbols as promotion; as having the intent to make a profit as a result of the telecast.

- c) Copyright: the exclusive legal right of publication, duplication, imitation, or sale of literary, musical or artistic work.
- d) Fundraising: The direct or indirect presentation of lottery information, games of chance for money or prizes, or similar money making enterprises or similar schemes excepting those conducted by nonprofit organizations properly licensed by the town and or state.
- e) Generally Offensive: Language of slang, vulgar or colloquial expression which refers, in the context in which it is used, to sexually explicit acts or to human elimination; or abusive language against men or women, ethnic groups, religious groups, sexual orientation, or persons with disabilities.
- f) 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.
- g) Illegal: Any material which violates any local, state or Federal law, or regulation thereof including, but not limited to, FCC Regulations (i.e., slanderous or libelous material).
- h) Indecent: “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” as defined in the 1992 policy statement of the Federal Communications Commission.
- i) Issue: A program whose primary purpose is to discuss the activities of an elected or appointed entity and the matters before them or a matter proposed for, or subject to, a ballot vote.
- j) Libel: Defamation by publishing or broadcasting information or statements that makes a false claim, expressively stated or implied to be factual, that may harm the reputation of an individual, business, product, group, government or nation and expose the subject to public hatred, shame or disgrace.
- k) Obscene: That material which violates the Supreme Court standard 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.” or by standards established by any federal, state or local regulation or law applicable to cable television.
- l) Organization: The corporate body politic(s) known respectively as the Town of Moultonborough (the “Town”) and the Moultonborough School Administrative Union (the “SAU”) and any of its officers or employees acting in an official capacity, and non-profit corporations, civic, or public interest clubs or associations of citizens who maintain their official place of business within Moultonborough with the purpose of serving the community.
- m) Political: A program whose primary purpose is to discuss the activities of an individual elected office holder, a candidate for the same, a group of elected or appointed officials or a political party.
- n) Producer: A resident, over the age of 18, or an organization who conceives of a program idea and manages the production of the program utilizing a majority of material which is filmed, videoed, collected, voiced over, captioned, and edited in an original state or is otherwise generated originally and who collects the majority of the materials themselves or under their direction and control. Residents under the age of eighteen may be a producer provided they obtain a mentor producer over the age of 18 who accepts full responsibility for the content of the program and completes all otherwise required forms and certifications required for access. He or she must have a parent or guardian cosign any required forms.
- o) Resident: A person who is domiciled or has a place of abode or both in Moultonborough, and who has, through all of his actions, demonstrated a current intent to designate that

place of abode as his principal place of physical presence for the indefinite future to the exclusion of all others.

- p) Series: A number of shows following one another in a general sequence of the same general format and on the same general subject matter or of the same general theme.
- q) Sponsor: A resident or organization seeking to air materials not obtained from a Producer.
- r) Underwriting: Donations of cash, venue, or goods or services, given in the public interest, that aid in developing or improving programs where credit for sponsorship does not exceed 1% of the total time of the program and is used as part of the credits as a statement of fact and not editorial praise. The direct solicitation of funds for any and all purposes (excluding assisting established community-based and nonprofit charitable organizations in their fund-raising activities) is prohibited.
- s) Violence: Extreme acts of violence against people, animals or property; or depictions of extreme violent acts in dramatic and/or poetic manners.

5.) Policy:

a.) Open Access:

i) No individual or group will be denied access on the basis of national origin, color, gender, gender orientation, handicap or disability, religious or political belief, or marital status.

ii) In accordance with the Free Speech protections of the First Amendment of the U.S. Constitution the Town will not censor programs. This policy is not to exercise editorial control and the Town does not accept any responsibility for the content of access programs, except those produced or sponsored by the Town.

iii) Programming time will be made available to access users on a first-come, first served, nondiscriminatory, non-monopolistic basis, in accordance with the procedures contained herein, provided they (a) complete and submit the required documents for access and (b) comply with this policy statement.

iv.) Access Users shall make a separate and distinct application for each program. After the access user has submitted six (6) programs such that they would generally be considered a "series", the Town Administrator may, at his discretion, grant the access user permanent approved status for the subject material.

b.) Acceptable Formats and Quality

Materials must be presented directly to Time Warner, in accordance with its format policies, together with written authorization from the town for the playing of the material. Material constantly submitted with (a) poor video quality (i.e. bleeding colors, excessive video noise, incorrect white balance, unstable video, washed out colors, insufficient brightness, focus or contrast problems) or (b) poor audio quality (i.e. audio level too low, excessive noise, synchronization problems, muddy or muffled sound) may be rejected by the Town. In such an event, the Town will not authorize broadcast of future material until the producer or sponsor has submitted at least two (2) sample programs showing the problems have been corrected.

c.) Disclaimers & Credits

All materials must contain one or more type of disclaimers as appropriate to the material. The Product or Sponsor Disclaimer(s) must be run at the beginning and end of each program in a reasonable font and for thirty (30) seconds, in audio and video. After this is run at the beginning of the show, added disclaimers of an equivalent reasonable duration and type, if required by the program content, must be run for 30 seconds and then again at each quarter hour of the show.

Added disclaimers describe the program in a non-judgmental way but give the viewer sufficient notice so that they may decide whether to watch the program. 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.

i.) Producer or Sponsor Disclaimer: *"The following program is locally produced by (or sponsored by) <name of producer and/or organization>. The content of the program is the sole responsibility of the producer and does not reflect the views or policies of, and has not been authorized by, the Town of Moultonborough, its officers or employees. Questions about this program may be directed to <naming and mailing address>. Complaints about this program or inquiries on how to produce a rebuttal program may be directed to <Town of Moultonborough contact address>.*

ii.) Graphic or Violent Material Warning: *"This program contains graphic (or violent) material, which may be offensive to some viewers. Parental discretion is advised. The contents of the following program are the sole responsibility of the < producer or sponsor> and do not reflect the views or policies of, and have not been authorized by, the Town of Moultonborough, its officers or employees."*

iii.) Generally Offensive Warning: *"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 <name of producer or sponsor> and do not reflect the views or policies of, and have not been authorized by, the Town of Moultonborough, its officers or employees.*

d.) Prohibited:

The following materials are prohibited and shall not be shown:

- i.) Obscene, Indecent or Libelous Material;
- ii.) Commercial or Fundraising Material;
- iii.) Illegal Material;
- iv.) Any person who represents themselves to be an employee, officer or agent of the Town of Moultonborough unless specifically authorized to do so by the Town;
- v.) Any use of the Town Seal unless specifically authorized by the Town.

e.) Indemnification:

In using the Town's PEG Channel, the user shall agree to indemnify and save harmless the Town of Moultonborough its employees officers successors and assigns from any and all claims and causes of action arising out of their use of the PEG Channel, including the payment of any and all damages awarded as a result thereof and the payment of legal costs including attorney fees,

by them or any third party in connection with their use of the PEG Channel, materials they show thereon, or materials they obtain from a third party site source.

f.) Complaints:

The Town Administrator will acknowledge the receipt of any complaint from a person with respect to access programming within seven days of receiving the complaint, conclude his review of the complaint within 45 days of receipt of the complaint, and advise the complainant of his findings forthwith. In notifying the complainant of his decision, he shall include a notice of their right to appeal if they are aggrieved by the decision. Action in response to a complaint may include:

- i.) Advising the complainant of their opportunity, in accordance with this policy statement, to present an opposing view;
- ii.) A finding there is no basis for the complaint;
- iii.) A referral to the Moultonborough Police Department or other appropriate law enforcement agency (when the program is alleged to be obscene or otherwise illegal); or
- iv.) Other action taken in accordance with this policy statement.

g.) Special Programming Considerations:

i.) First Amendment Concerns: Producers and Sponsors are urged to be familiar with the 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.

ii.) Discretionary Programming: Program with general offensive or violent material may be cablecast between 12:01 a.m. and 3:59 a.m. when young viewers are less likely to watch television.

iii.) Producers are encouraged to submit programming on a regular basis on an ongoing subject matter such that it will become a series; however, one-time or special programs are also accepted.

iv.) In the event of a scheduling conflict, access will following in order of priorities:
a. Programs produced or Sponsored by the Town or SAU;
b. Series Programming produced for a weekly, biweekly, monthly or other regular time slot containing material of the same general nature and under the same title.
c. Programs from Producers; and
d. Programs from Sponsors

v.) Political or Issue Programs related to a ballot vote shall not be broadcast after 12:01 a.m. of the Saturday before an election.

6.) Violations:

Noncompliance with these policies by users shall not be tolerated and shall be dealt with in accord with the following progressive steps:

a.) First Violation: Written warning to the Access User detailing the violation with warning of possible suspension of access privileges for up to one year.

- b.) Second Violation: Immediate suspension of privileges for up to one year as deemed justified by the severity of the violation.
- c.) Third Violation: Permanent Suspension.

In cases of extreme violation, such as falsification of the application or misrepresentation of the material to be presented, the Town Administrator may utilize a sanction normally reserved for a Second Violation.

7.) Appeals:

Any party aggrieved by the decision of the Town Administrator may appeal this matter to the Board, on a form to be designated by the Town Administrator together with any and all materials that would be submitted at an appeal hearing, within fourteen days of having been notified of said decision. Such Appeal shall be placed upon the agenda of the next regular business meeting of the Board, for which the Agenda remains open, where the Board will consider the matter and determine whether or not to have a formal hearing. The timetable after that shall be as established by the Board and its decision in any such matter shall be final.

7.) Evasion of This Policy:

The intent of this policy is to standardize the treatment of those seeking to use the PEG Channel. It shall be a violation of this policy, and a disciplinary offense, for staff to act in any manner other than prescribed herein.

8.) Periodic Review and Revisions:

Annually, at the time of goal setting for the budget, the Town Administrator shall review this policy with staff to determine how effectively it is meeting its purpose. Suggested revisions shall be submitted to the Board of Selectmen for consideration and adoption with the annual budget message submitted by the Town Administrator.

Adoption:

Whereas this fulfills our intent for uniform procedures throughout the organization, we do hereby adopt the provisions of this policy on this 2nd day of October, 2008.

Effective Date

This policy shall be effective on October 2, 2008

Given under our hands and seal this 2nd day of October, 2008.

Karel A. Crawford, Chairman
Edward J. Charest, Vice Chairman
James F. Gray
Joel R. Mudgett
Betsey L. Patten
Selectmen of Moultonborough



Office of Selectmen
Town of Moultonborough
6 Holland Street - PO Box 139
Moultonborough, NH 03254
(604) 476-2347 * Fax (603) 476-5835

Application for PEG Channel Access

The undersigned applies as a Producer _____ or Sponsor _____ to show a program on Channel 3 the Moultonborough Public, Education and Government (PEG) Channel. I have read and understand the Policy Statement of the Town for the use of this channel. I have signed and dated a copy of said statement which will remain on file with the Town. I agree to abide by the various rules contained therein and understand that any violation may result in a suspension of my privileges in the future.

Name of Resident or Organization: _____

Responsible Party if Different: _____

Address: _____

Telephone: _____

Name of Program: _____

Subject Matter: _____

Anticipated Length of Program: _____

Check if the Program Contains Any of the identified material

Political _____	Issue _____
Violence _____	Generally Offensive _____
Indecent _____	Graphic Images _____

1.) I understand that it is my sole responsibility to procure any necessary authorizations from original producers or persons who may have a copyright over any material contained in the program, including all necessary literary, artistic, intellectual, performing, and music rights as well as all necessary clearances from the owners of licensees of such material and certify that the program is free from any copyright infringements. I am able to document, in writing, that the cable casting of such material does not violate the rights of any third party.

2.) I certify that I am a resident or represent an organization (attach an authorization to act on their behalf) as defined in the statement of policy and that I have not received any compensation Application for PEG Channel Access for my work in connection with this matter.

3.) In using the Town's PEG Channel I agree to indemnify and save harmless the Town of Moultonborough its employees officers successors and assigns from any and all claims and causes of action arising out of my use of the PEG Channel, including the payment of any and all damages awarded as a result thereof and the payment of legal costs including attorney fees, by me or any third party in connection with my use of the PEG Channel, materials I show thereon, or materials I obtain from a third party site source.

4.) I understand that it is my responsibility to obtain written permission to access private property, if applicable, for the purpose of producing this program or programs and/or any participant release forms required by statute or deemed advisable by industry best practice.

5.) I accept responsibility for program content and ensure that content shall adhere to community standards and shall not be slanderous or libelous.

6.) I understand that the Town has no responsibility of quality assurance or verification that I have taken all of the actions necessary to ensure my absolute conformance with this agreement and that my failure to do so shall not act as a release by me of any of the certifications contained herein.

7.) I understand that I must run, at a minimum, the following disclaimer on my show:

"The following program is locally produced by (or sponsored by) <name of producer and/or organization>. The content of the program is the sole responsibility of the producer and does not reflect the views of, and has not been authorized by, the Town of Moultonborough, its officers or employees. Questions about this program may be directed to <naming and mailing address>. Complaints about this program or inquiries on how to produce a rebuttal program may be directed to<Town of Moultonborough contact address>.

I understand that additional disclaimers and may be required under the policy and agree to add those disclaimers as well.

Signature _____ Date _____

For Town Use Only (Circle One)

Approved _____ Date _____

Denied _____ Date _____

Special Notes or Instructions: _____

**CABLE ACCESS
Participant Release Form**

Participant's Name _____

Program _____

In consideration of the sum of Zero Dollars, (\$0.00) and for the opportunity to participate in the above-identified video program, I agree that the program(s) may be broadcast and distributed without limitation through any means and I shall not receive any compensation for my participation. I confirm that any and all material furnished by me for this program is either my own or otherwise authorized for such use without obligation to me or any third party. I also agree to the use of my name, likeness, portrait or pictures, voice and biographical material about me for educational, program or series publicity and organizational promotional purposes. I further agree that my participation in the program confers upon me no rights to use, ownership or copyright.

I confirm that any and all material furnished by me for this program is either my own or otherwise authorized for such use without obligation to me or any third party. I also agree to the use of my name, likeness, portrait or pictures, voice and biographical material about me for educational, program or series publicity and organizational promotional purposes. I further agree that my participation in the program confers upon me no rights to use, ownership or copyright.

I release the Town of Moultonborough, its employees, officers, successors and assigns, from all liability which may arise from any and/or all claims by me or any third party in connection with my participation in the program(s). It is understood that the Town of Moultonborough is under no obligation to broadcast the above identified program(s) or series.

Agreed to and signed on this day of _____

Participant's signature _____

Address _____

Telephone _____