

# Policies

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## ***Introduction***

Access Bellingham is a public access cable television service offered by the City of Bellingham. The Bellingham City Council has approved Access Bellingham as a pilot project for a period of twelve (12) months. Public access means access where organizations, groups, or individual members of the general public, on a non-discriminatory basis, are the primary or designated programmers (also referred to as producers) or users having editorial control over their programming. Community members may submit their programming to be cablecast on Bellingham Television Channel 10 during the time set aside for public access.

This service is funded through a combination of franchise fees paid by Comcast of Washington IV, Inc. (Comcast) and PEG fees paid by individual Comcast subscribers within the franchise area. Therefore, organizations, groups, or individual members of the general public that reside or operate a business within the City of Bellingham may submit programming to be cablecast on Bellingham Television Channel 10 during the designated public access time period.

We are committed to providing public access television services for our community within the pilot project framework established by the City Council. We encourage you to contribute by producing programming that reflects the spirit of our community. Please join us as we embark on this pilot project together.

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## Section 1. Definitions

"Commercial content" is any display, announcement, and/or references designed to promote the sale of any products, services, enterprises, or commercial events.

"Producer" - is any organization, group, or individual member of the general public who submits programming to be cablecast on Access Bellingham.

"Resident" - is any organization, group, or individual member of the general public whose primary place of residence is within the City of Bellingham or who operates a business within the City of Bellingham.

## Section 2. Operating Policies

The Operating Policies outlined in this document are subject to change at the sole discretion of the City of Bellingham. The most recent version of these policies may be found on our website (<http://www.cob.org/AccessBellingham>). By submitting programming for cablecasting on Access Bellingham, you agree to be bound by the most current version of these Policies.

### A) Producer's Responsibilities

- 1) Producers own the programs they create.
- 2) Producers shall comply with the programming submission requirements detailed below.
- 3) Producers have editorial control of their programming and are responsible for ensuring that their programming complies with the content restrictions detailed below.
- 4) Producers accept all responsibility and any associated liability for the content of their programming.
- 5) Producers agree to indemnify, save, and hold harmless Access Bellingham, the City of Bellingham, and Comcast, including their agents, employees and officers, from all liability of any kind whatsoever including the costs of legal defense arising from the use of facilities, channel(s) or access time by the producer.

### B) Access Bellingham's Responsibilities

- 1) Access Bellingham will schedule programming submitted by producers on a first-come, first-served basis.
- 2) Access Bellingham will take all necessary steps to cablecast programming on Bellingham Television Channel 10 during the time set aside for public access.
- 3) Access Bellingham will not exercise any editorial control over the programming.

### C) Programming Submission Requirements

- 1) Producers must be residents of the City of Bellingham. Producers must provide sufficient proof of residency in order to submit programming.

2) Producers must provide proof of identity in order to submit programming. Producers also must identify themselves in their program as part of the opening or closing credits. (See Procedures and Technical Specifications for more information regarding opening/closing credits.)

3) Producers shall obtain all necessary permissions, releases, licenses, and make all necessary payments to authorize cablecast of any material that is copyrighted or subject to ownership or royalty rights, union residuals, or any other payment (e.g. music, written works, photographs, film, and video). Access Bellingham reserves the right to request copies of these documents.

4) Producers shall submit programming that meets Access Bellingham's most current published technical specifications for length and formatting. (See Procedures and Technical Specifications for more information.)

5) Producers shall not submit the same program more than once.

## D) Programming Content Restrictions

Producers shall not submit programming to Access Bellingham which includes content that violates any applicable federal, state or local laws. Examples of content that would violate applicable laws or rules include:

1. Commercial content;
2. Lotteries; and
3. Obscenity.

### Commercial Content

The Cable Television Franchise agreement between the City of Bellingham and Comcast prohibits producers from submitting commercial programming. The franchise agreement states in relevant part: "PEG channels are for noncommercial programming to be promoted and administered by the City as allowed under applicable law." Section 6.4 (emphasis added). Accordingly, Producers shall not submit commercial programming or programming containing commercial content to Access Bellingham.

### Lotteries

Applicable Federal Communications Commission (FCC) regulations prohibit cable operators from transmitting or permitting to be transmitted any advertisement of or information concerning any lottery, gift, enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes. 47 CFR 76.213. Accordingly, Producers shall not submit this type of programming to Access Bellingham.

### Obscenity

Obscenity is unprotected speech and may not be broadcast on television at any time. The United States Supreme Court has developed the following three-part test for determining whether speech is obscene:

- a) An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest;
- b) The material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and
- c) The material, taken as a whole, must lack serious literary, artistic, political, or scientific value.

Please note that it is a federal crime to transmit obscene material on television including Access Bellingham. The Communications Act, which regulates cable television, states in part: "Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both." 47 USC 559. Producers shall not submit obscene material to Access Bellingham. Producers who violate this prohibition do so at their own risk.

### Section 3. Reservation of Rights

Access Bellingham and the City of Bellingham expressly reserve the right to amend these policies at any time with or without notice. As stated above, this is a pilot program and it is anticipated that changes will be made during the course of the program including, potentially, changes to these policies. These policies as currently drafted are designed to allow Access Bellingham maximum flexibility while providing notice to producers about what types of content is prohibited. However, and importantly, it will be up to producers to determine whether their content violates the content restrictions stated herein or any other applicable, laws, rules, or regulations. Access Bellingham reserves the right to deny future access to any producer that violates these policies.