

## Fourth Amended

### CITY OF LEAVENWORTH GOVERNMENTAL ACCESS CHANNEL CAPACITY GUIDELINES FOR UTILIZATION

*Ordinance No. 7740 for Revisions to Channel 2 Capacity Guidelines was unanimously approved by the City Commission on September 11, 2007.*

#### I. Introduction

As part of its administration of The General Cable Television Regulations, Ordinance No. 7291, and the Cable Franchise Ordinance No. 7292, the City of Leavenworth is hereby establishing guidelines for the use of channel capacity on the cable system dedicated by the Cable Franchise Grantee for governmental purposes.

#### II. Background

Under Part 4, Section 8 of the General Cable Television Regulations, the Cable Franchise Grantee is required to supply channel capacity for access to its cable system for governmental purposes. Initial governmental access is to be provided over one channel. These governmental access guidelines establish rules, procedures and requirements to determine eligibility to program the capacity and the acceptability of programming material for governmental access and otherwise set forth operating policies by which the City will make use of governmental access capacity.

#### III. Purpose

The purpose of governmental access hereunder is to provide to political subdivisions located in, or jurisdictionally part, of the City of Leavenworth, facilities and services that may be provided by governmental access channel capacity on the cable television system for intergovernmental and intragovernmental purposes, and to provide a public service using the cable television system as an outlet for governmental information and programming.

The City has established a Cable Television Advisory Committee to advise the City Commission on issues regarding cable television services that relate to governmental access.

#### IV. Eligible Governmental, Quasi-Governmental, and Other Entities

Upon application to the City, governmental access information or programming may be inserted over the cable system's governmental access channel capacity by an eligible governmental entity. The term "eligible entity" means the following: the Governing Body, executive personnel and administrative personnel of the City of Leavenworth; the Library Board of the Leavenworth Public Library; The Performing Arts Center; the Board of Education and the School Superintendent of Unified School District 453; the Board of County Commissioners; The Leavenworth County Port Authority; the Leavenworth County Development Corporation; The Leavenworth/Lansing Chamber of Commerce; Leavenworth Main Street, executive personnel and administrative personnel of

Leavenworth County; the State of Kansas to the extent related directly or substantially to the interests of the citizens of the City of Leavenworth; Fort Leavenworth, the VA Center, the U.S. Penitentiary, and the U.S. Post Office.

#### V. Policy Guidelines

A.) Governmental access is intended both for in-service use by and between eligible government entities and as a public service to the citizens of Leavenworth.

B.) The Assistant City Manager is the City's designee responsible for coordinating the operation of governmental access activities. The Public Information Officer shall act on behalf of the Assistant City Manager in matters related to the Government Access Channel.

C.) The Cable TV Advisory Committee shall provide the City Commission and City Manager with advice concerning governmental issues that are relevant to Leavenworth and the development and procurement of information, information services and programming responsive to those issues. The Cable TV Advisory Committee shall regularly consult with eligible governmental entities to identify relevant governmental issues. The Cable TV Advisory Committee from time-to-time may seek comment from members of the Leavenworth community for further input on relevant issues and information, information services and programming responsive to those issues

D.) The Assistant City Manager/Public Information Officer shall be the primary interface with the cable television franchisee for the purpose of scheduling franchisee-provided resources and facilities for the production and cablecast of governmental access programming.

E.) The Assistant City Manager or the Public Information Officer, in consultation with the Cable TV Advisory Committee, shall be responsible for accepting programming information and materials from eligible governmental entities and to assist in and coordinate the production of governmental access programming for such entities as they may require, subject to available facilities, funds and personnel. Cost-based, including for staff time, production fees may be assessed to governmental and quasi-governmental entities requiring production assistance. Such fees shall be determined from time-to-time by the Governing Body, at the advice of the Assistant City Manager/Public Information Officer in consultation with the Cable TV Advisory Committee.

F.) The Assistant City Manager's Office, in conjunction with the Cable TV Advisory Committee, may schedule, produce, and distribute a program schedule to community media, city staff and others upon request.

G.) All material or programming cablecast on governmental access capacity is subject to the review and approval of the Assistant City Manager or the Public Information Officer, who shall make such programming determinations in full consultation with the Cable TV Advisory Committee and consistent with these guidelines. The Governing Body has ultimate authority with respect to programming and material transmitted over the governmental access capacity.

H.) The Cable TV Advisory Committee shall be responsible for reviewing accessibility options for the deaf and hard of hearing community.

## VI. Access Policy

A.) Governmental access channel capacity is available only to eligible governmental and quasi-governmental entities, defined herein.

B.) Only programming or information of a bona fide governmental interest submitted by an eligible governmental entity shall be cablecast.

1.) The term "programming or information of a bona fide governmental interest" means video, audio, data and other intelligence which consists of or directly relates to:

a.) the administration of government business;

b.) in-service training or updating of public administration skills and techniques directly relating to enhancing the administration of government business;

c.) government business itself;

d.) programs, schedules, procedures or any other techniques that directly or indirectly assist the public in Leavenworth to receive or utilize government services.

2.) Programming or information of a bona fide governmental interest could be:

a.) live or delayed (taped) meetings of the City Commission of the City of Leavenworth, of the Board of Education of Unified School District 453, of the Library Board of the Leavenworth Public Library, of the Leavenworth Planning Commission, and of other City boards and commissions;

b.) live or delayed (taped) public meetings and hearings related to the operation of the City, County or State government as may be of interest to the Citizens of Leavenworth;

c.) information regarding the responsibilities, operations and services offered by various City, County or State departments that may be of interest to the citizens of Leavenworth, such as,

i.) public health and safety information or programs from the Leavenworth Fire Department, such as, fire prevention techniques, how to summon help in an emergency, first aid and evacuation procedures;

ii.) public health and safety information or programs from the Leavenworth Police Department or the Leavenworth County Sheriff's

Department, such as, how to "burglarproof" your home and automobile, how to summon help, crime watch information and fax broadcast numbers;

iii.) listings of employment opportunities listings posted by applicable City, County and State agencies;

iv.) listings of business hours of various government departments;

v.) descriptions and motion pictures of animals available for adoption from the Leavenworth animal shelter;

vi.) data, teletext, video and/or audio transmissions intended for use by individual departments of the City;

vii.) various announcements and notices of services and functions.

d.) Community events, such as parades, conferences, or ceremonies, which in the judgment of the Cable Television Advisory Committee are of significant value to the community.

e.) Government access channel capacity may not be leased to third parties for uses unrelated to the provision of governmental access pursuant to these guidelines.

f.) No religious programming shall be accepted for governmental access. "Religious programming" means programming or information that taken as a whole promotes or inhibits religion, irrespective of whether one or more or all religions.

g.) No "political programming" shall be accepted for governmental access. Nor may governmental access channel capacity be used to influence the election of any candidate to state or local office pursuant to Kansas Statutes Annotated § 25.4169a. "Political programming" is defined as that programming which, if inserted on the governmental access channel capacity, would constitute a use by a legally qualified candidate or his or her supporters (authorized or unauthorized) that would give rise to requirements by a cable operator, if such programming were to have been inserted on a cable channel subject to the cable operator's control, to provide equal opportunities and quasi-equal opportunities to other such candidates for the same office or their supporters (authorized or unauthorized) under Federal Communications Commission (FCC) cable television regulations, e.g., 47 C.F.R. §76.3(q) and §76.205 et seq., and related FCC policies, rules and doctrines, including the "personal attack rule." For these guidelines, the following are considered news events and are not "political programming:" meetings of and hearings before the City Council, the Board of Education of Unified School District 453, and City boards and commissions; debates among candidates for election to a particular office if

such debate is conducted and produced by a neutral third party, each candidate is asked identical questions by a neutral moderator and is given time to respond, and all candidates for such election are invited to attend such debate. Attachment 1 hereto is a description of "political programming."

h.) No programming shall be accepted for governmental access if it contains obscene material, sexually explicit conduct or material soliciting or promoting unlawful conduct under Section 10(c) of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act") as implemented by regulations of the FCC.

i.) No programming shall be accepted if it contains information constituting a "lottery" as defined in 18 U.S.C. § 1304 and FCC regulation 47 C.F.R. § 213. Attachment 2 hereto is a description of information constituting a "lottery."

j.) No programming shall be accepted if it contains commercial advertisements or solicitations for financial support for any group, organization or individual other than as expressly contemplated by these guidelines and with the express consent of the Assistant City Manager in consultation with the Cable TV Advisory Committee.

k.) No programming shall be accepted if it is libelous, slanderous or defamatory.

## VII. Procedures

A.) The Assistant City Manager, as assisted by the Public Information Officer, shall be responsible for the physical operation of the governmental access channel capacity.

B.) Modes of cablecast - Governmental access channel capacity may utilize seven cablecast modes:

- 1.) Live - Live coverage may be provided, subject to the preemption for any material that does not comply with these guidelines.
- 2.) Remote - Utilizing remote video production facilities for on-location tape-delayed cablecasts.
- 3.) Tape Delayed - Events or presentations may be videotaped for cablecast at a later time. Videotapes of live cablecasts may be replayed.
- 4.) Locally Produced Programs - Original programs that are bona fide governmental programming may be produced by eligible governmental entities, including production and production assistance by the Cable TV Advisory Committee on behalf of such eligible governmental entities. Any copyrights to locally produced bona fide governmental programming shall belong to the eligible governmental entity producing such program. If such eligible governmental entity is not organized and authorized to