

76

AN ORDINANCE OF THE BOROUGH OF CLINTONVILLE,  
VENANGO COUNTY, PENNSYLVANIA  
ENACTED ON THE 5th DAY OF APRIL, 1983  
KNOWN AS ORDINANCE NO. 1 of 1983

AN ORDINANCE OF THE BOROUGH OF CLINTONVILLE, in the County of Venango in the Commonwealth of Pennsylvania, granting to OMEGA SYSTEMS, INC., its immediate and remote successors and assigns, the franchise and consents to occupy and use all public places and public highways to install, maintain, use and operate equipment and facilities, and conduct the business of Omega Systems, Inc., as a cable communications and CATV service to circulate television programs and other information in the Borough during the initial term and the renewal thereof herein identified and granted, and declaring and defining the purposes and intents of this Ordinance to grant the franchise and regulate the provisions of this Ordinance.

BE IT ORDAINED AND ENACTED, and it is finally and legally ordained and enacted, by the Council of the Borough of Clintonville in meeting duly and regularly convened:

ARTICLE I: Short Title and Declaration of  
Purposes and Intents of Ordinance.

Section One: Short Title. This Ordinance shall be known and may be cited as the Clintonville Television Franchise Ordinance.

Section Two: Declarations of Purposes and Intents of Ordinance. The purposes and intents of this Ordinance are to:

- (a) Preserve, maintain, continue and protect the existing, and further promote the future, educational, social and commercial general welfare and safety of the Borough, and the inhabitants of the Borough; and
- (b) Comply by Ordinance with all laws of the United States of America and the the Commonwealth of Pennsylvania, and all the rules and regulations of all departments, bureaus, commissions and agencies of the United States of America and the Commonwealth of Pennsylvania to qualify to, and continue to operate, a CATV and cable communications service and system in the Borough.

ARTICLE II. Definitions.

Section One. The following words, terms or phrases shall mean and be construed as now stated when used in the title to, or in a provision of, this Ordinance, unless otherwise expressly stated, or obviously intended to be incompatible with the meaning or construction stated:

- (a) "Borough of Clintonville" or "Borough" means the Borough of Clintonville, a municipal subdivision of the County of Venango in the Commonwealth of Pennsylvania.
- (b) "Civic, educational, social, commercial and general welfare" shall mean and include all benefits to the Borough and to the residential and commercial inhabitants of the Borough that are effected by television programs and cable communications.
- (c) "Omega Systems, Inc." or "Omega" means the business corporation organized and qualified to conduct business in compliance with the laws of the Commonwealth of Pennsylvania by Articles of Incorporation issued and approved by the Department of State of the Commonwealth of Pennsylvania on the        day of        , 19        and now has its principal offices at 329 Little Avenue, Ridgeway, Pennsylvania 1585
- (d) "CATV" and "Community Antenna Television Viewing" and "Cable Communications" means a commercial business activity to circulate television programs and other information to patrons of, and subscribers to, the service of said activity.
- (e) "Equipment and facilities of Omega" means and includes, but is not limited to, real estate, rights of way and easements, poles, conduits, aerials, electronic devices, cables, wire transmission lines, leases and easements, office furniture and fixtures, motor vehicles and tools necessary or convenient for use and operation by Omega Systems, Inc., to conduct the business of Omega Systems, Inc.
- (f) "Events" means and includes facts, occurrences, and episodes that may be legally published, evidenced and circulated by television programs and television broadcasts, including past and current news, amusements, movies, sports activities and political activities.
- (g) "Federal Communications Commission" and "FCC" means the Federal Communications Commission of the United States of America.
- (h) "Franchise" in this Ordinance and in the rules and regulations of FCC referred to in this Ordinance means Omega Systems, Inc., and "franchising authority" in this Ordinance and in the said rules and regulations means the Borough of Clintonville.
- (i) "PUC" means the Public Utility Commission of the United States of America or of the Commonwealth of Pennsylvania.
- (j) "Purpose and business of Omega Systems, Inc" means the use and operation, maintenance, repair, replacement and extension by Omega of the equipment and facilities of Omega to receive, circulate and distribute television programs and other information to the patrons of, and the subscribers to the services of, Omega
- (k) "Safety of the Borough" means the protection and benefits to the Borough and to the residents and commercial inhabitants of the Borough by the prevention of injuries, losses and damages, or the mitigation of said injuries, losses and damages, caused by fire, flood, disaster, accident, or other casualty or unforeseen event; and in this instance means in particular the prevention or mitigation of said injuries, losses and damages that will result by the prompt circulation and dissemination by the cable system of all events relative to national, area and local casualties, emergencies and catastrophies.

- (1) "Television program" and "television broadcast" means an auditory and/or video program or other information received or created by Omega and then circulated by Omega, and thus communicated and/or distributed, to the persons, firms and corporations who are resident or commercial inhabitants of the Borough; and persons, firms and corporations in this definition includes both paid subscribers to, and patrons of, the services of Omega, and also to the municipal departments and the schools in the Borough that receive the service of Omega without charge in the implementation by Omega of a public service to promote the general educational, social and commercial welfare and the public safety of the Borough and the inhabitants of the Borough.

#### ARTICLE III. Grant of Franchise.

Section One. The Borough of Clintonville hereby grants to Omega Systems, Inc., its immediate and remote successors and assigns, the non-exclusive cumulative franchise rights, privileges, powers and consents to occupy and use all common public places and areas in the Borough of Clintonville, including public streets, highways, roads and parks, to conduct and further the business of Omega.

Section Two. (a) This Ordinance is a grant of a franchise by the Borough to Omega to operate and extend the CATV services and system in the Borough; and

(b) The Borough, by this Ordinance, grants to Omega, its immediate and remote successors and assigns, the cumulative and concurrent rights, privileges, powers and consents to use all common and public property, places and areas in the Borough, including the areas on, above and under said public property, places and areas, to construct, install, extend, maintain, repair and replace the equipment and facilities of Omega to operate and extend the said CATV service and system operated by Omega.

(c) The Borough of Clintonville consents to have Omega Systems, Inc., attach its cables, equipment and transmission lines to the poles or underground facilities of the various public utilities companies and to the authority of said public utilities companies to grant said rights to Omega Systems, Inc.

#### ARTICLE IV: Initial Term and Renewal Term of Franchise

Section One: The Borough grants the aforesaid franchise and consents to Omega Systems, Inc., its immediate and remote successors and assigns, during:

- (a) An initial continuous franchise term and period of ten (10) years, commencing on the 5th day of April, 1983; and
- (b) A renewal and additional term of ten (10) years, commencing on the date of the expiration of the aforesaid initial term; provided Omega has previously fully complied with and fully performed all provisions of this Ordinance.

ARTICLE V. Franchise Fees.

Section One: Omega Systems, Inc., shall pay the Borough

- (a) An initial prime cash franchise fee during the aforesaid initial franchise term of ten (10) years from the sum of One Thousand (\$1,000.00) Dollars, and said sum shall be paid in semi-annual installments of Fifty (\$50.00) Dollars cash, commencing of the 15th day of April, 1983; and
- (b) A franchise fee during the aforesaid additional and renewal term of ten (10) years shall be renegotiated and said sum shall be paid in semi-annual installments commencing on April 15, 1993.

Section Two: Omega Systems, Inc., shall install, maintain and service all cable and all transmission facilities appurtenant to the cable to and in premises used and occupied by the fire department of the Borough of Clintonville and the Borough building in the Borough of Clintonville, without cost, charges and fees to the Borough, except that the costs of parts and equipment shall be reimbursed to Omega Systems, Inc.

ARTICLE VI. Construction of Ordinance

Section One: Compliance with laws and regulations. Omega Systems, Inc., its successors and assigns shall at all times during the initial and renewal terms of this Ordinance comply with, and adhere to, jointly and severally, all provisions of this Ordinance and all other Ordinances of the Borough; and all permits issued by the Borough; laws of the United States of America and of the Commonwealth of Pennsylvania; and rules and regulations of all Federal and State departments, bureaus, commissions and boards of the United States of America and the Commonwealth of Pennsylvania, including rules and regulations of the Federal Communications Commission, the Department of Labor and Industry of the Commonwealth of Pennsylvania, and Pennsylvania Public Utility Commission; and in the event of the failure of Omega Systems, Inc., its successors and assigns, to comply with all the term of this Ordinance, the Borough shall have the rights to terminate this Franchise after hearing affording due process to Omega, its successors and assigns.

Section Two: This Ordinance is not intended and shall not be construed to grant a franchise, rights and consents to Omega to occupy and use public places and public areas as identified in Article III, Section One and Two, aforesaid, inconsistent or in conflict with the general use of the public or public purposes; however, this Ordinance is adopted and enacted to confirm a grant of the initial and extended use and occupancy of public places and public areas by Omega consistent with, and in furtherance of, the public welfare and public safety of the Borough of Clintonville and inhabitants of said Borough.

Section Three: This Ordinance, and the franchise and consents granted by the Borough to Omega by this Ordinance are not intended, and shall not be construed to restrict, limit, or impair the Borough in the exercise of its municipal powers, authorities and duties to exercise all police powers, and promote the general welfare, education or public interests, of the residents and commercial inhabitants of the Borough.

Section Four: The provisions of this Ordinance are intended to be severable and an adjudication that an Article, provision, Section or sub-section of this Ordinance is invalid shall not affect the validity of any other Article, provision, Section or sub-section of the Ordinance and the franchise granted by the Ordinance, or the validity of the Ordinance and the franchise granted by the Ordinance as a whole.

ARTICLE VII. Implementation of Ordinance.

Section One: The Borough of Clintonville, and the executive officers of said Borough, and the departments and bureaus of the Borough, shall issue to Omega Systems, Inc., in the name of the Borough, all permits necessary or convenient to evidence the grant of the franchise herein and to implement the provisions of this Ordinance.

ARTICLE VIII. Indemnification of the Borough by Omega.

Section One: Omega shall indemnify and hold harmless the Borough of Clintonville from and against any and all claims, demands, costs, expenses, including reasonable counsel fees, liabilities, losses, actions and causes of action of any kind or nature whatever arising in any manner whatsoever out of the grant of this franchise and the exercise by Omega of the rights, powers and privileges granted to Omega hereunder; and Omega shall continue in full force and effect throughout the initial and any renewal term the insurance coverages identified in Article XVI in said amounts or in additional reasonable amounts or lesser reasonable amounts as shall be required by the Borough from time to time; and the indemnification by Omega of the Borough hereby provided shall be covered by contractual liability coverage in amounts equal to the aforesaid public liability coverage.

ARTICLE IX. Emergency Use of Omega's Facilities  
by the Borough.

Section One: Omega, to the extent its facilities are available, shall make available at the request of the Mayor, Acting Mayor, or Council of the Borough, the use of Omega's broadcasting facilities for local disasters and emergency broadcasts and announcements.

ARTICLE X. Maintenance of System by Omega.

Section One: Omega shall continue throughout the initial and any renewal term efficient maintenance, operation and service of its system in the Borough, and keep the same reasonably current with all technical and operational advances and improvements in the industry so far as economically feasible.

ARTICLE XI. Conditions of Franchise.

Section One: Omega Systems, Inc., has agreed to the following conditions in connection with the operation of its system, and said following conditions are incorporated in and made a part of this Ordinance:

(a) The basic service to be provided by Omega Systems, Inc., will consist of no less than one (1) educational station, no less than one (1) each of the three (3) major networks, no less than one (1) independent station, no less than one (1) national independent station as received by satellite, and a full coverage of FM radio signals.

(b) Premium service shall consist of no less than one (1) station such as Home Box Office (TM) or Showtime (TM) which will operate on a 24 hour basis. Premium service will be an addition to basic service.

(c) Omega's television signals will be capable of full fidelity color transmission and will distribute to the extremities of the Borough the same quality signals as are received at Omega's antenna site, subject only to minimal deterioration not readily visible to the eye, but measurable with a meter. The F.M. radio signal transmission will be capable of transmitting F.M. signals popularly referred to as "Stereo F.M." and multiples.

(d) The schedule of rates to provide cable television service with the Borough of Clintonville shall be as follows:

(1) Initial connection fee for each residence	\$ 30.00
(2) Connection fee for additional television or radio	no charge
(3) Monthly service charge for basic service	\$ 9.00
(4) Monthly service charge for each additional outlet	\$ 1.00
(5) Annual basic service charge, a discounted rate offered for advance payment	None
(6) Premium service charge (for optional reception of Premium Station)	\$11.00
(7) Reconnect charge for reconnection of service where wire and equipment is already in place.	\$10.00

(e) No changes in the above rates charged to the subscriber shall be made by Omega Systems, Inc., except as authorized by the Borough after appropriate proceedings affording due process.

#### ARTICLE XII.

Section One: Omega Systems, Inc., shall operate a cable television system to all points within the Borough which shall comply with all of the rules and regulations of the Federal Communications Commission and any other governmental body having authority over the methods of the Omega Systems, Inc., operation. Any future amendments as proposed by any governmental agency, including but not limited to the Federal Communications Commission, shall be incorporated into this Ordinance with respect to the method of operation of Omega Systems, Inc. Omega Systems, Inc., has assured the Borough of Clintonville that it will comply with all such regulations, and further that the adoption of this Ordinance is consistent with the policy as promulgated by the Federal Communications Commission, or any other government agency, with respect to obtaining a franchise to operate a cable television system. If and in the event this Ordinance, or any part

thereof, proves to be in conflict with any government rule or regulation, then, and in that event, Omega Systems, Inc., will hold harmless the Borough of Clintonville from any cost or charges attributable thereto.

Section Two: Omega Systems, Inc., shall have the authority to promulgate such rules, regulations and conditions covering the conduct of its business as shall be reasonably necessary to enable Omega to exercise its rights and perform its obligations under this franchise Ordinance and to assure an uninterrupted service to each and all of its customers. Such rules and regulations, terms and conditions, shall not be in conflict with the provision of this Ordinance or in conflict with any of the laws of the United States of America or the Commonwealth of Pennsylvania or any regulatory agency having jurisdiction over cable television.

Section Three: A complaint of any subscriber to the service of Omega Systems, Inc., shall be in an informal written form that states all complaints and objections of a subscriber regarding the quality of service, equipment, malfunction and similar matters relative to the operation of Omega. Omega will promptly investigate all complaints and, within a reasonable time, resolve said complaint at its own expense.

#### ARTICLE XIII. Prudent Operation and Installation.

Section One: Omega's installation of equipment and operation of its equipment shall be so installed, located and maintained so as not to endanger or interfere with the lives and property of any person, firm, partnership or corporation, nor shall it interfere with improvements which the Borough may make nor shall it obstruct the free use of streets, alleys, or highways of the Borough. In the event Borough relocates a street or makes any other change requiring the removal of utility installations or in the event Omega interferes with public or private property, Omega at its sole expense will remove its installation at this location.

#### ARTICLE XIV. Indemnity Concerning Program Subject Matter.

Section One: Borough has no control, standard or regulation pertaining to the subject matter of programs distributed by Omega. Omega agrees to indemnify and save harmless the Borough, its officers and employees, from all claims, demands, suits, actions, costs and expenses at law or equity, for libel, slander, patent or copyright infringement and in the event Borough, its officers or employees, are made a party defendant in any action arising out of the subject matter or programs transmitted by Omega, Omega at its sole cost and expense shall defend such action and appeals therefrom. Omega agrees that in the event of a final judgment entered only after Omega has had a reasonable opportunity to defend, and is subject to no further appeal is entered against Borough, its officers or employees; Omega will immediately provide to Borough, its officers or employees, for transmittal to plaintiff, a sum of money equal to the amount of said judgment entered against the Borough, its officers or employees.

#### ARTICLE XV. Indemnity-General Liability.

Section One: Omega shall indemnify and save harmless Borough from all claims, demands, suits, actions, costs and expenses arising out of or caused by the installation, erection, operation, existence or maintenance of Omega's facilities permitted under this Ordinance.