

**LOWER ALLEN TOWNSHIP  
CUMBERLAND COUNTY**

**ORDINANCE NO. 2019-01**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF LOWER ALLEN, CUMBERLAND COUNTY, PENNSYLVANIA, HEREBY AUTHORIZING THE ACQUISITION OF LANDS OWNED BY ASBURY ATLANTIC, INC., BY THE USE OF EMINENT DOMAIN FOR DRAINAGE AND OTHER TRANSPORTATION PURPOSES.**

**WHEREAS**, the Township of Lower Allen (hereinafter the “**Township**”) is a body politic corporation, organized and existing under the provisions of the First Class Township Code; and

**WHEREAS**, the Township of Lower Allen in accordance with the authority vested in it by law, desires to acquire land pursuant to the **First Class Township Code** Section 1501(53 P.S. §56501 et seq.); and

**WHEREAS**, the Township of Lower Allen is a condemnor under the definitions of the **Eminent Domain Code** at 26 Pa. C.S.A., Section 202 et seq.; and

**WHEREAS**, the Township of Lower Allen desires to acquire a portion of the property known as Cumberland County Parcel Number 13-09-0545-006 for public purposes, including transportation, stormwater drainage and conveyance.

**BE IT ENACTED AND ORDAINED** by the Board of Commissioners (“**Board**”) of the Township of Lower Allen (“**Township**”), Cumberland County, Pennsylvania, it is hereby enacted and ordained by the same as follows:

**SECTION I**

- A.** Pursuant to authority granted to the Board by the **First Class Township Code** at Section 1501 et seq., and the **Eminent Domain Code** 26 Pa. C.S.A., Section 101, et seq., the Township of Lower Allen authorizes the acquisition of a portion of the property known as Cumberland County Parcel Number 13-09-0545-006. Specifically, the proposed acquisition consists of an area of 319 SF (approximately 0.007 acre) to be acquired in fee simple as right-of way for a Township road. Additionally, an area of 109,194 SF (approximately 2.507 acres) is to be encumbered with a Perpetual Drainage Easement (PDE) while an area of 4,701 SF (approximately 0.108 Acre) is to be encumbered with a Temporary Construction Easement (TCE) for a period of two years.
- B.** The Board of Commissioners of the Township of Lower Allen hereby authorizes the Solicitor of the Township to take all necessary action to acquire the property of Asbury Atlantic by eminent domain or other means.
- C.** The Township of Lower Allen is a condemnor under the **Eminent Domain Code**, and is not required to post security because of its power of taxation, 26 Pa. C.S.A. Section 303 (b)(1).

**SECTION II**

The provisions of this Ordinance, as far as they are the same as those of Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and not as new enactments. The provisions of this Ordinance shall not affect any such suit or prosecution pending, or to be instituted to enforce any right or penalty, or to punish any offense under the authority of any Ordinance repealed by this Ordinance.

**SECTION III**

The provisions of this Ordinance are severable, and if any of its provisions shall be held to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision not been included herein.

**SECTION IV**

This Ordinance shall take effect immediately.

**ENACTED AND ORDAINED** into an Ordinance this 25<sup>th</sup> day of March, 2019.

**ATTEST:**

**(Corporate SEAL)**

**LOWER ALLEN TOWNSHIP**

By: \_\_\_\_\_  
Secretary/Assistant Secretary

By: \_\_\_\_\_  
H. Edward Black, President