

## ORDINANCE NO. 109

AN ORDINANCE AUTHORIZING AND DIRECTING THE TAKING, APPROPRIATING AND CONDEMNING A SUBTERRANEAN EASEMENT FIFTEEN FEET WIDE, FOR THE INSTALLATION OF A PUBLIC SANITARY SEWER BY THE BOROUGH OF MONROEVILLE THROUGH THE PROPERTY OF LOUIS R. AND ELIZABETH PUSHNIK AS IS DESCRIBED IN THIS ORDINANCE; PROVIDING FOR THE TENDER OF THE BOND OF THE BOROUGH OF MONROEVILLE TO THE OWNER OF SAID PROPERTY AND UPON THEIR REFUSAL TO ACCEPT THE SAME TO PRESENT THE SAME TO THE COMMON PLEAS COURT OF ALLEGHENY; EMPOWERING AND DIRECTING THE SOLICITOR AND OTHER BOROUGH OFFICERS TO DO ALL ACTS NECESSARY TO THE MUNICIPAL EXERCISE OF THE ACT OF EMINENT DOMAIN IN ACCORDANCE WITH THE BOROUGH CODE AS SUPPLEMENTED AND AMENDED.

Be it ordained and enacted by the Burgess and the Council of the Borough of Monroeville and it is hereby ordained and enacted by the authority of the same.

Section One: - The Borough of Monroeville by its Ordinance No. 93 finally enacted on May 9, 1957, did provide for the building of a sanitary sewer to be constructed from the intersection of the old William Penn Highway and Beatty Road to the confluence of Abers Creek and Turtle Creek, all in the Borough of Monroeville.

Section Two: - Contemporaneously with the enactment of Ordinance No. 93, the Borough Engineer at the direction of Borough Council prepared detailed plans and specifications for said sanitary sewer which said plans and specifications have been adopted by said Borough Council.

Section Three: - Said plans located said sanitary sewer on the property of Louis R. and Elizabeth Pushnik at two different locations and at each of said locations the construction of the said sewer requires a right of way and easement fifteen feet wide through lands of Louis R. and Elizabeth Pushnik, the center line of each being described as follows: -

No. 1. Beginning at a point on the dividing line between the lands of Louis R. and Elizabeth Pushnik, and the lands of G. R. and Lillian Y. Anthony, said point being north 82° 28' 00" East a distance of eighty-six and eighty-seven one hundredths (86.87) feet from the point common to all of Pushnik, Anthony and Jeffrey, thence North 49° West

one hundred (100) feet to a point on the dividing line between Jeffrey and Pushnik, which said point is North  $13^{\circ} 58' 00''$  East, eighty (80) feet from the point common to Anthony, Pushnik and Jeffry referred to above.

No. 2. Beginning at a point on the dividing line between Louis R. and Elizabeth Pushnik and Elbert C. Cooksey, said point being North  $85^{\circ} 01'$  West, thirty (30) feet from the northeast corner of the Cooksey property, thence North  $33^{\circ}$  West one hundred thirty (130) feet to a point, thence North  $19^{\circ}$  West forty (40) feet to a point on the dividing line common to Pushnik and John L. and Annie K. Saunders.

Section Four: - The Borough of Monroeville has attempted to negotiate for the right of way or easement for the sanitary sewer as described above with the said owners Louis R. and Elizabeth Pushnik but such negotiations have proven unsuccessful, and therefore does by this ordinance exercise its right of eminent domain and hereby takes, appropriates and condemns for sanitary sewer purpose the right of way and easement described above with the right to install therein a sanitary sewer and to enter upon the said right of way and easement from time to time to construct, repair and maintain said sewer.

Section Five: - This taking, appropriation and condemnation is for public use, welfare and benefit and is made necessary in order to protect the health and welfare of the citizens and residents of Monroeville by the providing of necessary sanitary sewers.

Section Six: - The proper officers of the Borough of Monroeville are hereby authorized and directed to tender to the said Louis R. and Elizabeth Pushnik the bond of the Borough of Monroeville in the sum of One Thousand-(\$1000.00)-Dollars-and-present-the-same,-to-the-solicitor-present-the-same-to-the-Court-of-Common-Pleas sand (\$1000.00) Dollars and present the same to Louis R. and Elizabeth Pushnik and upon their refusal to accept the same, to have the solicitor present the same to the Court of Common Pleas of Allegheny County, Pennsylvania. The

solicitor and the other officers of the Borough of Monroeville are hereby directed and empowered to do all acts necessary on behalf of the Borough of Monroeville to fully complete the taking, appropriation and condemning of this right of way or easement including the instituting and/or defending of all actions by viewers, or otherwise, for the determination of such damages, if any, connected herewith.

Section Seven: - All ordinances or parts of ordinances conflicting with this ordinance, be and the same are hereby repealed in so far as they conflict with this ordinance.

BOROUGH OF MONROEVILLE

S/ Gladys Diller  
Borough Secretary

S/ Edgar Giles  
President of Council

Examined and approved by me this 26th day of November 1957.

S/ Samuel Jenkins  
Burgess