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**BOROUGH OF APOLLO**  
**COUNTY OF ARMSTRONG**  
**COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 272-16

AN ORDINANCE AMENDING ORDINANCE NO. 267-15 OF THE BOROUGH OF APOLLO, A MUNICIPALITY IN THE COUNTY OF ARMSTRONG, IN THE COMMONWEALTH OF PENNSYLVANIA; ESTABLISHING REGULATIONS APPLICABLE TO VACANT RESIDENTIAL, INDUSTRIAL AND COMMERCIAL STRUCTURES

The Council of the Borough of Apollo, in the County of Armstrong and Commonwealth of Pennsylvania, hereby ordained that ORDINANCE NO. 267-15 ESTABLISHING REGULATION APPLICABLE TO VACANT INDUSTRIAL AND COMMERCIAL STRUCTURES IS AMENDED TO READ IN ITS ENTIRETY AS FOLLOWS:

The title and all provision set forth therein, are deleted in their entirety and replaced with the following:

**BE IT ORDAINED AND ENACTED** by the Borough Council of the Borough of Apollo, in the County of Armstrong and Commonwealth of Pennsylvania, and it is hereby ordained and enacted by the authority of the same, in accordance with the provisions of the Act of Assembly of the Commonwealth of Pennsylvania, that the following Ordinance, in accordance with applicable rules and regulations, establishing regulations applicable to residential, industrial and commercial structures to better provide for health, safety, and welfare of its citizens, is hereby enacted, having the official title of the **BOROUGH OF APOLLO VACANT RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PROPERTY ORDINANCE**.

**ARTICLE 1: PURPOSE AND ENFORCEMENT**

- a) The purpose of this ordinance requiring the registration of all vacant and abandoned residential, commercial and industrial real property, buildings and structures including any public nuisance, as defined in Article 2(a) of this ordinance, and the payment of registration fees is to assist the Borough of Apollo in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the Borough, to assess the effects of the condition of those buildings on nearby businesses and residents in the neighborhoods in which they are located particularly in light of fire and safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings their registration and payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings. The provision of this section are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of the ordinances of the Borough of Apollo and all relevant codes and/or regulations adopted therein.

- b) Administration and enforcement of this Section shall remain under the sole control of the Borough Manager and/or designee. The Borough Manager and/or designee shall have the authority to institute summary criminal proceedings as a means of enforcement of this section and shall, when acting within the scope of employment hereunder, have the powers of a police officer of the borough; provided however, that under no circumstances shall they have the power to arrest.

## **ARTICLE 2: DEFINITIONS**

- a) As used in this Ordinance, the following words and phrases shall have the meanings indicated unless the context clearly indicates a different meaning.

Abandoned: deserted or discarded for more than 180 days.

Abandoned Real Property: shall mean any real property, including but not limited to one or more vacant buildings or structures, without respect to occupancy or vacancy, that is subject to a mortgage and is either: (i) In default on such mortgage for which a mortgagee has obtained a judgment in foreclosure; (ii) In default on such mortgage and subject to an application or proceeds for a tax deed or pending tax claim bureau or tax assessor sale for unpaid property taxes; (iii) In default on such mortgage and subject to an application or proceedings for a sheriff sale for unpaid claims, debts, or obligations; or (iv) In default on such mortgage and has been transferred to a mortgagee by deed in lieu of foreclosure, or any similar document. The designation of real property as "abandoned real property" shall continue and remain in place until such time as the real property is sold or transferred to a new owner, the foreclosure action is dismissed, or any default on the mortgage has been cured.

Borough: shall mean the Borough of Apollo, Armstrong County, Pennsylvania.

Borough Council: shall mean the Borough Council of the Borough of Apollo.

Cellar: a room typically used for storage that is located in the basement of a building and is not used for commercial, industrial, or residential purposes.

Commercial business: any business that relates to the exchange of goods or services.

Commercial building: a building that is used, or partially used, for commercial business activities. Commercial buildings include, but are not limited to, stores, offices, schools, churches, gymnasiums, libraries, museums, hospitals, clinics, warehouses, and jails.

Discarded: cast aside as useless or undesirable.

Garbage: the animal or vegetable waste resulting from the handling, preparation, cooking and the consumption of food.

Ground Floor: any occupied floor of a building with direct access to grade, that is located less than one story above, or less than one story below grade, provided that no portion of a floor that constitutes a cellar as defined in this article shall constitute a "ground floor."

Habitable: livable; with reference to this Ordinance, a structure with a hard roof and sides that is equipped with heat, electricity and functional plumbing, and is capable of being lived in without undue risk to human health and safety.

Industrial business: any business that relates to the production or manufacture of goods.

Industrial building: property or design for, or used by, companies or persons for manufacturing, warehousing or assemblage of components.

Notice: means written notice of a violation, pursuant to First class Mail, to the last known address of the owner of the property in question.

Occupied: any building or structure where one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient business, or any combination of the same.

Owner: any person (i) having a legal or equitable interest in a property; (ii) having a legal interest in a property recorded in the official records of the state, county or municipality as holding title to the property; or (iii) otherwise having control of the property including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person: an individual, corporation, partnership, financial institution, bank, credit union, savings and loan company, investment firm, government agency, government authority, municipal corporation or any other group acting as a unit.

Property: any portion of unimproved or improved real estate located within the Borough of Apollo which includes the buildings or structures located on it regardless of condition.

Public Nuisance:

- Any building, structure, or property, which, because of physical condition, use or occupancy is considered to be an attractive nuisance to minors or uninvited persons.
- Any building or structure which because it is dilapidated, unsanitary, unsafe, insect or vermin-infested or lacking in the facilities and equipment required by the Ordinances of Apollo Borough and has been designated by the Borough as a public nuisance.
- Any structure which is a fire hazard, a structural hazard, or is otherwise dangerous to the safety of any persons or any property.
- Any building or structure which lacks, or has rendered inoperable, fire protection systems as required by the applicable codes and ordinances.

- Any structure, from which water, plumbing, heating, sewage or other facilities have been disconnected, destroyed, removed or rendered ineffective, so that the property creates a hazard to neighboring properties.
- Any building or structure which for reason of neglect or lack of maintenance has become a place for the accumulation of refuse, a haven for insects, rodents, and other vermin.
- Any building or structure which as a result of its dilapidated, unsanitary, unsafe, insect or infested condition creates damage or a risk of damage to a neighboring property.

Refuse: materials that are abandoned, discarded, or destined for recycling. The term includes rubbish, garbage, scrap metal, tires, appliances, vehicles, general trash, construction/demo debris, etc.

Rubbish: combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust, construction/demo debris and other similar materials.

Storefront: shall mean any facade located on the ground floor of a commercial building having one or more storefront windows.

Storefront window: shall mean any window of any commercial building that permits an unobstructed public view into the interior of the building from any immediately adjacent street, sidewalk or right-of-way.

Structures: constructed objects. For purposes of this Ordinance, the term includes, but is not limited to, buildings, sheds, garages, swimming pools and recreational facilities.

Vacant: a building or structure, or portion thereof, shall be deemed to be vacant if no person or persons currently conducts a lawfully licensed business there, or lawfully resides in or lives in any part of the building as the legal or equitable owner(s) or tenant occupant(s) or owner-occupants or tenant(s), on a permanent non-transient basis.

Vacant building: a property or structure, or portion thereof, that is unoccupied for more than sixty (60) days or has been the subject of (i) a mortgage foreclosure action or notice; (ii) a bankruptcy sale or notice; (iii) a delinquent tax sale or notice, or (iv) a mortgage foreclosure action where the title to the property has been retained by the beneficiary of a deed or trust involved in the foreclosure or transferred under a deed in lieu of foreclosure/sale.

Vacant storefront: a storefront shall be deemed vacant if no person or persons currently conducts a lawfully licensed business there.

Window: an opening in a building that has a glass casement for permitting natural light into a building.

Window display: a visual representation of information or graphics for viewing by the public in a window.

Window sign: a sign that is painted on, applied, attached to a window, or that is located within the interior of a structure and that is plainly visible and is erected, constructed or maintained for the primary purpose of being viewed from the exterior of that structure.

### **ARTICLE 3: APPLICABILITY AND SCOPE**

- a) This ordinance shall be applicable to all abandoned real property, buildings and structures and all vacant real property, buildings and structures including any public nuisance, as defined in Article 2(a) of this ordinance, located within the geographical confines of the Borough of Apollo, Armstrong County, Pennsylvania, that have been vacant for more than sixty (60) consecutive days and to each owner, interest holder, or local agent of any such abandoned real property or vacant building or structure, without regard to whether such owner, interest holder, or local agent is a public, private, governmental, commercial, industrial, residential, institutional, non-profit, or for profit-person.

### **ARTICLE 4: REGISTRATION**

- a) An owner shall register a vacant or abandoned property with the Borough Manager or designee, on a form or forms provided by the Borough and pay the appropriate registration fee.
- b) Registration shall contain (i) the name of the owner(s) of the property; (ii) the direct street/office mailing address of the owner(s) (no post office box addresses are allowed); (iii) a direct contact name and phone number for the owner(s); (iv) the local property management company responsible for the security, maintenance and marketing of the property (if applicable); (v) the date of vacancy; and (vi) any other information deemed necessary by the Borough Manager or designee.
- c) Registration fees shall not be prorated.
- d) Properties subject to registration under this Ordinance shall remain under the registration fee requirement for as long as they remain vacant.
- e) Each vacant building or structure shall be registered with the Borough within one hundred and eighty (180) days of the date such building or structure becomes a vacant building or structure, and annually thereafter by July 15, for each subsequent calendar year, if such building or structure continues to be a vacant building or structure during each subsequent calendar year, until such time as such building or structure ceases to be a vacant building or structure.

#### **ARTICLE 5: ESTABLISHMENT OF REGISTRY**

- a) The Borough Manager or designee shall establish a registry cataloging each abandoned property within the Borough, containing the information required by Article 4 of this ordinance.

#### **ARTICLE 6: REGISTRATION FEE SCHEDULE**

- a) The registration fee shall be established by resolution of the Council of the Borough of Apollo. The fee structure is based on the number of years the building, storefront, or portion thereof, has been vacant under its current ownership.

#### **ARTICLE 7: WAIVER OF FEES**

- a) A waiver of fees may be granted for the current year if the following conditions are met:
  - 1. All local municipal fees are paid in full;
  - 2. A good faith effort is shown to rent, sell, or lease the space. Good faith efforts include contracts with realtors, newspaper ads, window signs, or other methods provided that the effort is actually likely to generate interest in the property and the owner is actually willing to rent, sell or lease;
  - 3. Pricing is consistent with other similar buildings;
  - 4. The building is in compliance with all Borough of Apollo codes and ordinances and is habitable; or
  - 5. Other good cause as determined by a majority vote of council.

#### **ARTICLE 8: DUTY TO AMEND REGISTRATION STATEMENT**

- a) If the status of the registration information changes during the course of any calendar year, it is the responsibility of the new owner, his/her representative, or agent for the same to notify the Borough Manager or designee in writing within thirty (30) days of the occurrence of such change.

#### **ARTICLE 9: LOCAL AGENT REQUIREMENT**

- a) Each owner or interest holder of vacant or abandoned real property buildings or structures not providing a residence, office or business location with an address within the geographical confines of fifteen (15) miles from the Borough boundary, shall designate a local agent and shall provide the complete name, address, telephone number and email address (if applicable) of such local agent on the registration form filed with the Borough.

- b) Such owner of interest holder shall also provide a statement signed by the local agent whereby the local agent accepts the designation as local agent of such owner or interest holder, which signed statement, shall be an acknowledgment of the local agent of the requirements responsibilities, and obligation under the ordinance.
- c) With such designation, a local agent shall be authorized by such owner or interest holder to accept service of process, notices, statements, invoices, and other communications resulting from or related to this ordinance on behalf of such owner or interest holder. With such designation, a local agent shall be responsible for providing the Borough Manager or designee with access to the abandoned property or vacant building or structure for the purposes of making inspections, maintaining and securing the abandoned real property, building or structure or vacant real property, building or structure, and responding to any emergency associated with the abandoned real property, building or structure or vacant property, building or structure or structure affecting the public health, safety or welfare.
- d) Each owner and interest holder and each respective local agent shall be jointly and severally responsible for compliance with ordinances of the Borough and the laws of the Commonwealth of Pennsylvania as applied to the abandoned property or vacant property, building or structure.

#### **ARTICLE 10: INSPECTIONS**

- a) An inspection must be completed within ninety (90) days of the initial registration including any owner or owners or interest holder seeking a waiver of fees pursuant to Article 7 of this ordinance.
- b) A subsequent inspection must be completed within ninety (90) days after a waiver of fees is granted, pursuant to this Article 7 of this ordinance, to determine whether the owner or owners or interest holder in the property remain in compliance with the conditions of Article 7(a) of this Ordinance. A third inspection must be completed within an additional one-hundred eighty (180) days after a waiver of fees is granted, pursuant to Article 7 of this ordinance, to determine whether the owner or owners or interest holder in the property remain in compliance with the conditions of Article 7(a) of this Ordinance.
- c) In addition, an annual inspection of a registered abandoned building or structure or vacant building or structure shall be performed by the Borough to determine if it complies with the minimum requirements, as determined by the code official, of any and all applicable property maintenance codes, Ordinances of the Borough of Apollo, the Pennsylvania Uniform Construction Code, any and all applicable building code/laws any and all fire prevention codes/laws and laws of the Commonwealth of Pennsylvania.

- d) If any violations of the applicable laws/codes outlined in Article 10(c) of this ordinance are identified, the Borough shall issue a Notice of Violation as per the requirements of those codes and give notice to the owner to comply with the codes with a time to cure. If the violations are not corrected within the time given, the property may be declared a public nuisance and the Borough may pursue any and all available remedies, both in law and in equity, and both civilly and criminally.
- e) These annual inspections must occur within ninety (90) days of the anniversary date of the annual registration date. Inspection costs will be determined by the Borough of Apollo.

#### **ARTICLE 11: FAILURE TO APPEAR FOR INSPECTION**

- a) If the owner or his/her representative cannot be available at the proposed time, said owner or representative shall provide no less than 24-hour written notice to the Borough Manager.
- b) Upon failure to give such written notice, or upon failure to gain entry, an administrative fee of \$50 will be assessed against the owner, or representative of the owner. For each rescheduling beyond the second rescheduling, an administrative fee of \$100 shall be assessed in all cases.
- c) Failure to pay administrative fees shall, at the discretion of the Borough Manager, constitute a violation of this ordinance or the any applicable law/ordinance including, but not limited to, the Ordinances of the Borough of Apollo.
- d) Failure of an owner, or his/her responsible agent, to appear for a scheduled inspection shall be considered probable cause for obtaining a search warrant to inspect the premises.

#### **ARTICLE 12: COMPLAINT INSPECTIONS**

- a) Nothing in the Article shall preclude the Borough from performing an inspection upon receipt of a complaint or violation of the Ordinances of the Borough of Apollo existing at the building or structure. Said inspections shall be in accord with the applicable Codes and Ordinances and regulations and policies established by the Borough of Apollo.

#### **ARTICLE 13: MAINTENANCE REQUIREMENTS**

- a) Properties subject to registration under this Ordinance shall be kept free of weeds, high grass, dry brush, dead vegetation, trash, garbage, junk, debris, rubbish, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by Federal, State or Local law), discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material, vehicle or vehicle parts, or any other items that give the appearance that the property is abandoned; and



- b) The property shall be maintained free of graffiti, tagging or similar markings.
- c) Visible front and side yards shall be landscaped and maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark, or artificial turf/sod. Landscaping does not include weeds, gravel, broken concrete, asphalt, plastic sheeting, indoor-outdoor carpet or any similar material unless approved by the Borough.
- d) Pools and spas shall be kept in working order so the water remains clear and free of larvae, pests, pollutant and debris, or drained and kept dry. In either case, a property with a pool or spa must comply with the minimum security fencing requirements of the relevant Ordinances of the Borough of Apollo.
- e) Adherence to this Ordinance does not relieve any property owner of any obligations set forth in any other Ordinance of the Borough of Apollo.
- f) A property owner required to register a property under this Ordinance is hereby given thirty (30) days to comply with these maintenance requirements.

#### **ARTICLE 14: SECURITY REQUIREMENTS**

- a) Properties subject to registration under this Ordinance shall be maintained in a secure manner so as not to be accessible to unauthorized persons, vermin, and any other pests.
- b) Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates, and any other opening of such size that it may allow an uninvited person to access the interior of the property and/or structure(s). In the case of broken windows, securing means the re-glazing or boarding of the window.
- c) If the property has been condemned, the property shall be posted with the name and 24-hour contact phone number of the owner and local property management company. The posting shall be no less than 8 ½" x 11" and shall be of a font that is legible, written in English, and shall contain along with the name, the Borough of Apollo Vacant Properties Registration Number, a 24-hour contact number, and the words "THIS PROPERTY MANAGED BY" AND "TO REPORT PROBLEMS OR CONCERNS CALL...".
- d) The posting shall be placed on the interior of the window facing the street to the front of the property, or, if no such area exists, on an area of sufficient size to support the posting in a location that is visible to the front of the property, but not readily accessible to vandals. Exterior posting must be constructed of, and printed with, weather resistant materials.

#### **ARTICLE 15: ADDITIONAL AUTHORITY.**

- a) If the Borough has reason to believe that a property subject to the provisions of this Part is posing a serious threat to the public health, safety and welfare, the Borough may temporarily secure the property at the expense of the mortgagee and/or owner. In such event, the Borough may pursue any remedies, both in law and in equity, and both civilly and criminally, to be reimbursed for any such expenses incurred.
- b) In the event the condition of the property poses a serious threat to the public health, safety and welfare, the Magisterial District Justice may direct the Borough to abate the violations and charge the mortgagee/owner with the costs of such abatement.
- c) In addition to all other remedies, if the mortgagee/owner does not reimburse the Borough for the costs of temporarily securing the property, or of any abatement directed by the Magisterial District Justice, within 30 days of the Borough sending the mortgagee/owner the invoice, then the Borough may lien the property and such costs, along with an administrative fee of \$500, including all reasonable legal and filing fees incurred.

#### **ARTICLE 16: REQUIREMENTS FOR VACANT STOREFRONTS**

- a) Responsibility for compliance with this section include any person owning, leasing, maintaining, or otherwise in possession or control of any vacant storefront located within the Borough of Apollo, or any owner of the property upon which the vacant storefront is located.

#### **ARTICLE 17: MAINTENANCE**

- a) The vacant storefront of a commercial building located in the Borough of Apollo shall be maintained in good condition, kept neat, clean, secure, free of graffiti, and lighted.

#### **ARTICLE 18: WINDOW DISPLAY REQUIREMENT**

- a) In order to improve the appearance of vacant storefronts and improve overall security, any vacant storefront that is located within the Borough of Apollo shall, not more than sixty (60) business days after the date on which the ground floor premises first becomes vacant, contain a window display, or other form of decorative screen, in each of the storefront windows. A variety of window displays are acceptable provided they have a professional appearance, achieve a desired coverage of 60-100%, and are not offensive to the general public. The Borough Manager or designee shall approve all window displays

**ARTICLE 19: SIGNAGE**

- a) Handwritten signs are not permitted. Professionally made window signs and real estate signs are permitted provided they meet the requirements of the Apollo Borough Zoning Ordinances. Not more than three square feet of informational signage such as real estate signs or contact information may be placed in a vacant ground floor window. Larger professional signs that function as the window display are permitted.

**ARTICLE 20: VIOLATIONS AND PENALTIES**

- a) Any person who violates, or permits the violation, of any provision of this Ordinance shall, upon conviction in a summary proceeding, be subject to a fine of Five Hundred (\$500.00) Dollars, and costs of the prosecution for each offense, or imprisonment not to exceed thirty (30) days, or both fine and imprisonment. Each day that such violation occurs or continues shall constitute a separate violation.
- b) Any fines collected as a result of a violation of any provision of this Ordinance shall be placed in the General Fund of the Borough of Apollo.

**ARTICLE 21: SEVERABILITY**

- a) If any section, subsection, sentence, or clause of this Ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this Ordinance.

**ARTICLE 22: REPEAL OF CONFLICTING ORDINANCES**

- a) All Borough Ordinances, to the extent inconsistent with this Ordinance are hereby repealed, including, in particular, Ordinance No. 267-15, the Borough of Apollo Commercial/Industrial Property Vacancy Ordinance.

ORDAINED and ENACTED by the Borough Council of the Borough of Apollo  
in lawful session duly assembled this JUNE 23, 2016.

ATTEST:

BOROUGH OF APOLLO

Cynthia Madematt  
Borough Secretary

By: John 2. Kautz  
John Kautz, President  
Apollo Borough Council

Examined and approved this 23<sup>rd</sup> day of JUNE, 2016.

Jeffrey A. Held  
Hon. Jeffrey Held, Mayor

**VACANT RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PROPERTY  
ORDINANCE PROPERTY REGISTRATION FEE SCHEDULE**

1st year of registration	\$250.00
2nd year of registration	\$500.00
3rd year of registration	\$1,000.00
4 <sup>th</sup> and 5th years of registration	\$2,000.00
6 <sup>th</sup> , 7 <sup>th</sup> , 8 <sup>th</sup> and 9 <sup>th</sup> years of registration	\$3,500.00
10th year of registration	\$5,000.00

An additional \$500.00 will be applied for every year of vacancy beyond ten years.

The fee schedule may be amended by the Apollo Borough Council, as needed.