

BOROUGH OF APOLLO
COUNTY OF ARMSTRONG
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 273-16

AN ORDINANCE OF THE BOROUGH OF APOLLO (HEREINAFTER "THE BOROUGH"), ARMSTRONG COUNTY, PENNSYLVANIA, PROVIDING FOR THE VACATING, REMOVAL, REPAIR OR DEMOLITION OF ANY STRUCTURES DANGEROUS TO THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE BOROUGH; AND SETTING FORTH THE PROCEDURE AND RULES FOR DETERMINING DANGEROUS STRUCTURES.

WHEREAS, in the Borough there are or may be in the future structures that are dilapidated, unsafe, dangerous, unsanitary, or any two or more from among these; and

WHEREAS the Borough has determined that such regulations as adopted herein are reasonable and necessary for the health, safety, and welfare of the Borough, and its residents; and

WHEREAS, the Borough desires to regulate dilapidated, unsafe, dangerous and abandoned buildings which tend to constitute a public nuisance and a fire hazard.

NOW, THEREFORE, it is hereby enacted and ordained as follows:

ARTICLE 1: TITLE

- a) This ordinance shall be known as the "BOROUGH OF APOLLO DANGEROUS BUILDINGS ORDINANCE."

ARTICLE 2: APPLICATION

- a) This Ordinance shall apply uniformly to all persons, business organizations, non-profit organizations, and all other legal entities; and it shall apply uniformly to all property and all property owners within the Borough.

ARTICLE 3: DEFINITIONS AND WORD USAGE

- a) Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the ordinance its most reasonable application consistent with its intent.
- b) The word "shall" is always mandatory and not merely directory.

- c) Words used in the present text include the future and past, words in the plural number include the singular, words in the singular number include words in the plural and words wither in the feminine, masculine or neuter shall include words of the other two genders.
- d) When used herein, the following words shall have the following meanings:

Borough: The Borough of Apollo, Armstrong County, Pennsylvania.

Borough Council: The Borough Council of the Borough of Apollo.

Dangerous Buildings: all the buildings or structures which have any or all of the following defects; and all such buildings or structures shall be deemed "dangerous buildings" as:

1. Those which have been damaged by fire, wind or other cause so as to fail utterly to provide the amenities essential to decent living and are unfit for human habitation.
2. Those which have been damaged by fire, wind or other cause so as to have become dangerous to the life and safety, morals, or the general health and welfare of the occupant or the people of the Borough.
3. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which is so utterly fail to provide the amenities essential to decent living so that they are unfit for human habitation.
4. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which are so utterly fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to work injury to the health, morals, safety or general welfare of those living therein as well as other citizens of the Borough.
5. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property, or
6. Those which because of their general condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Borough.
7. Those which through poor construction, physical damage, decay or deterioration, or through neglect have become uninhabitable or create a risk of injury or death to person occupying said structure or to adjacent landowners or the public at large.
8. Those which are at risk of partial or complete collapse, regardless of whether it is occupied or not.

ARTICLE 4: DANGEROUS BUILDINGS AS NUISANCES

- a) All "dangerous buildings" are hereby declared to be public nuisances and shall be repaired, vacated and/or demolished.
- b) Each day a nuisance in the form of a dangerous buildings continues after notice is given that said dangerous building is to be repaired, vacated and/or demolished, shall constitute a separate offense in violation of this Ordinance.

ARTICLE 5: INVESTIGATION PROCEDURE

- a) Whenever it is reported or comes to the attention of any Borough official or Borough Police Officer that any building or structure completed or on the process of construction or any portion thereof is in a dangerous condition, a Borough official or a Borough Police Officer shall make an investigation and examine the building or structure reported.
- b) If the Borough official or Borough Police Officer making the investigation believes that the structure is a dangerous building, then a written report of the investigation specifying the condition of the structure and in what respect it is dangerous shall be made.
- c) If the report recommends that the building be removed or demolished as a dangerous building, the report shall be presented to the Borough Council.

ARTICLE 6: NOTICE

- a) If any structure is reported to be in a dangerous condition, the Borough official or Borough Police Officer shall cause written notice to be served upon the owner of such structure. Such notice shall include a notice to repair and require the owner of such structure to commence the repair of such building within ten (10) days of such notice and to complete such repair within sixty (60) days from the receipt of such notice.
- b) The notice and order shall identify the building or structure deemed dangerous; contain a statement of the particulars which made this building or structure a dangerous building and include an order requiring the same to be put in such condition as to conform with the terms of this Ordinance; provided further in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure, in lieu of making the repairs thereto within the time period provided.
- c) The owner or owners shall be determined from the office of the Recorder of Deeds in and for the County of Armstrong, Commonwealth of Pennsylvania, or failing to find such owner or owners, notice shall be given to the occupant, mortgagee, lessee, agent or any other person found with an interest in said dangerous structure as the Borough may discover hereinafter called the "other party".

ARTICLE 7: HEARING PROCEDURE

- a) The Council of the Borough shall:
1. Upon receipt of a report in accordance with the investigation procedure provided hereinabove in Article 5(c) of this Ordinance, give written notice to the owner or owners of such dangerous buildings to be removed or demolished as determined by the records in the County assessment and Recorder of Deeds offices in and for the County, in the Commonwealth of Pennsylvania, or failing to find any owner or owners, then notice shall be given to the occupant, mortgagee, lessee, agent or any other person found with an interest in said dangerous building as the Borough may discover, and said notice shall inform the owner or other party to appear before the Council on a date specified to show cause why the building or structure reported as a dangerous building should not be removed or demolished in accordance with any written report to Council or determination made by Council.
 2. Within not less than ten (10) days nor more than sixty (60) days from the date of such notice, hold a hearing and hear such testimony as the owner, occupant, mortgagee, lessee or other person having an interest in said building shall offer related to whether the dangerous building should be removed or demolished.
 3. Within thirty (30) days of such hearing, make written findings of fact from the testimony offered pursuant to the hearing as to whether or not the building in question should be removed or demolished, and;
 4. Within not more than thirty (30) days following the hearing provided for by subsection 2). hereof, issue an order, based upon findings of fact made pursuant to subsection 3). hereof, demanding the owner of said building to remove or demolish said building.

ARTICLE 8: STANDARDS FOR REPAIR, VACATION OR DEMOLITION

- a) The following standards shall be followed in substance by the Council in ordering repair, vacation or demolition of a dangerous building:
- 1) If the dangerous building can be repaired as determines by the Borough official or Borough Police Officer so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.
 - 2) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.
 - 3) If the dangerous building cannot be reasonably repaired as determined by the Council, it shall be demolished.

- 4) If the dangerous building is a fire hazard or is existing or erected in violation of the terms of this Ordinance, any other ordinance of the Borough or any statute of the Commonwealth of Pennsylvania, it shall be demolished.

ARTICLE 9: PENALTIES

- a) Any owner, occupant or lessee who is in possession of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish any dangerous building issued under this Ordinance or who violates any of the other provisions of this Ordinance, shall upon conviction before a District Justice, be subject to a fine not exceeding Three Hundred Dollars (\$300.00) plus costs, and in default of payment of the fine and costs shall be subject to imprisonment for a period not to exceed thirty (30) days. Each day of a violation shall be considered separate violations and offenses.
- b) Any person having an interest in any building who fails to comply with any notice or order to repair, vacate, or demolish any dangerous building within ninety (90) days of the receipt of such notice, by such failure does empower the Council to cause such building or structure to be repaired, vacated or demolished by the Borough and to cause the costs of such repair, vacation or demolition together with a penalty of ten (10%) per cent to be charged upon the land upon which the building exists as a municipal lien, or alternatively to recover such costs and penalty in a suit at law against the owner or owners but failing to recover same to have the judgment therefore to be charged upon the land as a lien; and, this subsection is separate from in addition to the fine, penalty and costs which may be imposed by any other sub-section of this section.
- c) In addition to and not in lieu of the foregoing, the Borough may seek equitable and legal relief to compel compliance with this Ordinance.

ARTICLE 10: EMERGENCY CASES

- a) In cases where it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a dangerous building, the Council shall cause the immediate repair, vacation or demolition of such dangerous building.
- b) The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected as provided for in Article 9(b) of this Ordinance.

ARTICLE 11: SEVERABILITY

- a) In the event of any provision, section, sentence, clause, or part of this Ordinance being held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Borough that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

- b) In the event of any legislation by the Commonwealth of Pennsylvania becoming effective dealing with the same or similar subject matter as that included herein, such shall remain in full force and effect if it is more restrictive, and not inconsistent with such legislation, but if such legislation is more restrictive than, inconsistent with, or both, then this Ordinance shall be interpreted according to such legislation and shall be superseded to the extent necessary to give such legislation appropriate effect. However all the remainder of the ordinance shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

ARTICLE 12: EFFECTIVE DATE

- a) This Ordinance shall be effective within five (5) days after enactment.

ARTICLE 13: REPEALER

- a) Any and all prior Ordinances and/or any portion of prior Ordinances that are in conflict with this Ordinance are hereby repealed to the extent of such conflict. The remaining Ordinances and/or portions of prior Ordinances, not modified herein, shall remain the same.

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 McDermott
Borough Secretary

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

Examined and approved this 23rd day of JUNE, 2016.

Jeffrey A. Held
Hon. Jeffrey Held, Mayor