

BOROUGH OF APOLLO  
COUNTY OF ARMSTRONG  
COMMONWEALTH OF PENNSYLVANIA  
ORDINANCE NO. 282-21

AN ORDINANCE AMENDING ORDINANCE NO. 272-16 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 ("Borough"), in the County of Armstrong and Commonwealth of Pennsylvania hereby ordain that ORDINANCE NO. 282-21 ESTABLISHING REGULATIONS APPLICABLE TO VACANT RESIDENTIAL, INDUSTRIAL AND COMMERCIAL STRUCTURES IS AMENDED TO READ ITS ENTIRETY AS FOLLOWS:

The title and all provisions sets 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 I

PURPOSE AND ENFORCEMENT

- a. The purpose of this ordinance is to prevent vacant or abandoned properties in the Borough from becoming public nuisance buildings or structures by 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 II (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 provisions 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 and all relevant codes and/or regulations adopted herein.

- b. Administration and enforcement of this Section shall remain under the sole control of the Borough Council and/or designee. The Borough Council 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 II

### DEFINITIONS

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

Abandoned. Deserted or discarded for more than 365 calendar 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 a subject to a mortgage and is either: (i) in default on such mortgage for which a mortgagee has obtained a judgement 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 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 mortgage 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, regardless of whether money is exchanged for the 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, manufacturing and jails.

Discarded. Cast aside as useless or undesirable.

Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and 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, provide 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, functional plumbing, and is capable of being lived in without unreasonable risk to human health and safety.

Industrial Business. Any business that relates to the production or manufacture of goods, or any portion of the production or manufacturing process.

Industrial Building. Property designed for, or used by, companies or persons for manufacturing, warehousing or assemblage of components.

Notice. Means notice of a violation, pursuant to First Class Mail, to the last known reported 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 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 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 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 any uninvited persons, as follows:

- a. 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 the Borough and has been designated by the Borough as a public nuisance.
- b. Any structure which is a fire hazard, a structural hazard, or is otherwise dangerous to the safety of any persons or any property.

- c. Any building or structure which lacks, or has rendered inoperable, fire protection systems as required by the applicable codes and ordinances.
- d. 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.
- e. Any building or structure which for reason of neglect or lack of maintenance has become a place for the accumulation of refuse, or a haven for insects, rodents, and other vermin.
- f. Any building or structure which as a result of its dilapidated, unsanitary, unsafe, insect or infested condition created 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 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 façade 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. Shall mean constructed objects. For purposes of this Ordinance, the term includes, but is not limited to, building, sheds, garages, swimming pools and recreational facilities.

Vacant. A building or structure, 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, that is unoccupied for more than one hundred eighty (180) 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 III

#### 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 II (a) of this Ordinance, located within the geographical confines of the Borough of Apollo, Armstrong County, Pennsylvania, that have been vacant for more than one hundred eighty (180) 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 IV

#### REGISTRATION

- a. An owner shall register a vacant or abandoned property with the Borough Council or designees, 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 and phone number for the owner(s) 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 Council or designee.
- c. Registration fees shall be due for the calendar year in which they are assessed and 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 a public nuisance, as defined in Article II, Section 2(a) of this Ordinance.

- e. Each vacant building or structure shall be registered with the Borough within one hundred eighty (180) days of the date such building or structure becomes a public nuisance building or structure, and annually thereafter by January 1, for each subsequent calendar year, if such building or structure continues to be a vacant building or structure and ceases to be a public nuisance or structure as per the definitions and provision of this Ordinance then such building or structure will be removed from the vacant list.

## ARTICLE V

### ESTABLISHMENT OF REGISTRY

The Borough Council or designee shall establish a registry cataloging each abandoned property within the Borough, containing the information required by Article IV of this Ordinance. The said Registry shall list the known vacant properties in the Borough as of June 30 of each calendar year. The said Registry shall contain the following information:

- i. The address of the property;
- ii. The name/address of the record owner of the property;
- iii. The date the property was deemed vacant; and
- iv. The Apollo Borough Vacant Property Registration Number.

## ARTICLE VI

### REGISTRATION FEE SCHEDULE

Council shall review the Registration Fee Schedule on an annual basis. Council shall be authorized to amend the Registration fees by resolution as needed.

## ARTICLE VII

### WAIVER OF FEES

- a. CURRENT YEAR WAIVER – A waiver of fees may be granted by the Borough for the current calendar year if the following conditions are met:
  - 1. All local municipal fees are paid in full;
  - 2. The building is in compliance with all Borough Codes and Ordinances;
  - 3. The building is under renovation, but not habitable, as defined in Article II, Section 2(a) of this Ordinance; or
  - 4. Other good cause as determined by a majority vote of the Borough Council.
- b. PERMANENT WAIVER – A permanent waiver of fees may be granted if the following conditions are met:
  - 1. All municipal fees are paid in full;
  - 2. The building is in compliance with all Borough Codes and Ordinances;
  - 3. The building is under renovation and habitable as defined in Article II. Section 2(a);
  - 4. A good faith effort is shown to rent, sell or lease the space subject to this Ordinance. Good faith efforts include, but are not limited to: contracts with realtors, newspaper

- ads, window signs as defined by Article II, Section 2(a) of this Ordinance, or other methods, provided such methods are likely to generate interest in the sale, lease or rental of the said property and further that pricing is consistent with pricing for similar buildings in the area. It is burden of proof of the owner or agent to provide evident of good faith efforts;
5. The building or structure is not defined as a “public nuisance” under Article II, Section 2(a) of this Ordinance.
  6. A building or structure is under the same ownership as, is located within a relative proximity to and is used for the purpose of an established business within the Borough;
  7. Other good cause as may be determined by a majority vote of the Borough Council; or
  8. A permanent waiver may be revoked at any time when the building or structure no longer complies with any part of Article VII (b) of this Ordinance.

## ARTICLE VIII

### DUTY TO AMEND REGISTRATION STAEMENT

If the status of the registration information changes after the property is registered as vacant or during the course of any calendar year, it is the sole responsibility of the owner, the new owner or their 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 IX

### 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 twenty five (25) 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 or 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, maintain 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 be abandoned property or vacant property, building or structure.

## ARTICLE X

### INSPECTIONS

- a. An inspection must be completed after the registration of the property by the beginning of the year following its registration. This includes any owner or owners or interest holder seeking a waiver of fees pursuant to Article VII of this Ordinance to assess the applicability of the abandoned building, structure, vacant building or structure to the Ordinance. Property owners shall be required to cooperate with the scheduling and the conducting of such inspections.
- b. 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, 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.
- c. If any violations of the applicable laws/codes outlined in Article X (c) of this Ordinance are identified, the Borough shall issue a Notice of Violation as per the requirements of the applicable codes. The Borough shall give notice to the owner of the steps needed to comply with the codes, and shall provide the owner with notice of a time to cure. If the violations are not corrected within the time period provided, the property may be declared a public nuisance. Notice shall be provided via First Class Mail to the last known and reported address of the owner. The Borough may then pursue any and all available remedies, both in law and in equity, and both civilly and criminally.
- d. The annual inspections must occur within ninety (90) days of the anniversary date of the annual registration date. Inspection costs will be determined and published by the Borough of Apollo.
- e. A copy of the Apollo Borough Inspection Form is attached hereto as Addendum B.

## ARTICLE XI

### FAILURE TO APPEAR FOR INSPECTION

- a. If the owner or his/her representative cannot be available at the proposed time for inspection, said owner or representative shall be required to provide a minimum of 24-hour's notice to the Borough Manager or designee. The purpose of the notice shall be to permit the rescheduling of the inspection.



- b. Upon failure to provide such notice as required by paragraph a., above, or upon the Borough's inability to gain entry to perform the scheduled and required inspection, an administrative fee of \$50.00 will be assessed against the owner, or representative of the owner. An administrative fee of \$100.00 shall be assessed for each rescheduling require beyond the initial rescheduling, and each rescheduling that may be required thereafter.
- c. Failure to pay administrative fees shall constitute a violation of this Ordinance and may subject the property owner to civil and/or criminal prosecution.
- 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 XII

### COMPLAINT INSPECTIONS

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 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.

## ARTICLE XIII

- a. In addition to any other provisions of this Ordinance, 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 the property is abandoned.
- 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 shall be 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.
- e. Adherent to this Ordinance does not relieve any property owner of any obligations set forth in any other Ordinance of the Borough.

- f. A property owner required to register a vacant property under this Ordinance is hereby provided thirty (30) days after the date of registration to comply with maintenance requirements.

#### ARTICLE XIV

- 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 board of the window.
- c. If the property has been properly condemned, the property shall be posted with the name and 24-hour contact phone number of the owner and/or local property management company. The posting shall be no less than 8" x 11" in size 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 construed of, and printed with, weather resistant materials.

#### ARTICLE XV

##### ADDITIONAL AUTHORITY

- a. If the Borough has reason to believe that a property subject to the provisions of this Ordinance 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, both civilly and criminally, to be reimbursed for any such expenses incurred.
- b. 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 thirty (30) days of the Borough sending the mortgagee/owner the invoice, then the Borough may lien the property. Costs, along with an administrative fee of \$500.00, including all reasonable legal and filing fees incurred may be sought as part of the lien.

#### ARTICLE XVI

##### REQUIREMENTS FOR VACANT STOREFRONTS

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

## ARTICLE XVII

### MAINTENANCE

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

## ARTICLE XVIII

### WINDOW DISPLAY REQUIREMENT

In order to improve the appearance of vacant storefronts and improve overall security, any vacant storefront that is located within the Borough 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 minimum coverage of 60%, and are not offensive to the general public. The Borough Manager or designee shall approve all window displays. Such approval shall be in writing.

## ARTICLE XIX

### SIGNAGE

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 Ordinance 223-07. Not more than five (5) 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 (Article XVIII above) are permitted.

## ARTICLE XX

### 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.

## ARTICLE XXI

### SEVERABILITY

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

## ARTICLE XXII

### REPEAL OF CONFLICTING ORDINANCES

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/Residential Property Vacancy Ordinance.

ORDAINED and ENACTED by the Borough Council of the Borough of Apollo in lawful session duly assembled this 35 day of March, 2021.

ATTEST:

Deanna Shupe  
Deanna Shupe, Secretary/Treasurer  
Apollo Borough

John Steele  
John Steele, President

Apollo Borough Council, Examined and Approved this 35 day of March, 2021.

Cynthia Virostek  
Honorable Cynthia Virostek, Mayor

ADDENDUM A

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

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

The Borough of Apollo, in the amount to be established time to time, by resolution of the Apollo Borough Council change the fees to be paid.