

38 **Section 3. PROCEDURES TO PROCURE A PERMIT**

39 No individual, partnership, corporation or other entity may demolish, raze or remove any
40 structure without first obtaining approval from Muncy Borough Council or its designated agent.
41 All applications for demolition, razing or removal of any structure must be accompanied by a
42 land use plan for the site on which the proposed demolition, razing or removal is to occur.

43 A. Applications shall be initially submitted in writing to the Zoning Officer and following a
44 review that all required information is provided; the Zoning Officer shall refer such
45 applications to the Borough Secretary or Borough Manager, as applicable. Upon receipt
46 of the application, the Secretary or Manager shall forward a copy of the application to the
47 Muncy Borough Council for their review and recommendation

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49 B. Applications to demolish raze or remove structures located in the Overlying Historic
50 District shall be forwarded to the Muncy Borough Historic Commission. At a publicly
51 advertised meeting, the Historic Commission shall conduct its review and make its
52 recommendations to Borough Council within 45 days of receipt of the application. These
53 45 days are to run concurrent with the 60 days described in Section 3C.

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55 C. Within 60 days of the date of receipt of an applicant's completed application, Borough
56 Council shall select a date, advertise (pursuant to the definition of Public Notice) and
57 hold its first public hearing on the application. Hearings shall be conducted in
58 accordance with the procedures set forth in this Ordinance. The burden of presentation of
59 the demolition application at the hearing shall rest with the property owner(s).

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61 D. The Borough Council shall render a decision within 45 days after the last hearing on the
62 application. In approving the application, council may place additional conditions on the
63 demolition, razing or removal of a structure. When the application is contested or denied,
64 the decision shall be accompanied by findings of fact or conclusions thereon, together
65 with any reasons therefor.

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67 E. A copy of the final decision, signed by the Borough Council President, shall be delivered
68 to the applicant and the Zoning Officer no later than 60 days from the last hearing on the
69 application. If the demolition application is approved, the Zoning Officer will issue a
70 Permit, which includes any additional conditions which may have been placed on the
71 application and provided that all applicable fees have been paid.

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73 F. Where the Council fails to commence, conduct, or complete the required hearing or fails
74 to render a decision within the prescribed time periods, the decision shall be deemed to
75 have been rendered in favor of the applicant, unless the applicant has agreed in writing or
76 on the record to an extension of time. When a decision is rendered in favor of the

77 applicant because of a violation of the prescribed time periods, Borough Council shall
78 give public notice of the decision within 10 days from the last day that they could have
79 met to render a timely decision.

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81 G. Unless otherwise specified by Borough Council in the decision, the demolition
82 authorization shall expire if the applicant fails to comply with the conditions of said
83 authorization or within six (6) months from the date of final written decision.

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85 H. The applicant or any party opposing the application has a right to appeal the decision as
86 permitted by law and the ordinances of Muncy Borough.

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88 **Section 4. REQUIRED PROOFS AND INFORMATION – For all applications**

89 A permit application to demolition, raze or remove a structure will only be considered if it
90 includes all of the following information and/or proofs:

91 A. Payment of all applicable fees.

92 B. Address of the structure

93 C. Name, address and telephone number of the owners of the property and structure.

94 D. Copy of Tax Records (Tax Cards available at the Lycoming County Assessors office),
95 indicating assessed value of property and structure.

96 E. Statement of current use or description of most recent use and if vacant, number of years
97 vacant.

98 F. Statement of reason for demolition, including an explanation as to why rehabilitation,
99 reuse, plan alteration or stabilization with the intent to use or market/sell the property is
100 not feasible.

101 G. For structures greater than 1000 square feet, a report from a professional engineer
102 registered in the Commonwealth of Pennsylvania on the structural soundness of the
103 structure proposed for demolition and any remaining structures (of parts whereof) which
104 are not intended to be demolished.

105 H. Detailed plans on the intended use of the property if the structure is demolished, razed or
106 removed. If new structures are proposed, the plans must show their location along with
107 all related site improvements and utilities. Architectural drawings and site elevation
108 plans should also be provided. A schedule for construction must also be provided. If
109 applicable provide proof of erosion and sediment plan or NPDES permit approval.

110 I. Contractor's name, address and telephone number.

111 J. Copy of the contract for demolition.

112 K. A bond or certificate of insurance evidencing that the property owner and/or contractor
113 has insurance coverage, the minimum of which provides \$1,000,000 coverage for each
114 person, \$3,000,000 for each occasion and \$1,000,000 property damage.

- 115 L. A written statement in which the owner of the structure and the contractor undertaking
116 the work shall agree in writing to indemnify and hold harmless the Borough of Muncy
117 against any and all claims for personal injury or property damage arising out of or as a
118 result of the demolition work to be undertaken. See Appendix A
- 119 M. Site Plans demonstrating features to be removed and/or retained, including existing and
120 proposed landscaping, utilities and site restorations.
- 121 N. Prior to the start of demolition provide certification of utility disconnects for gas, water
122 and electric lines. In addition, all sanitary and storm sewers shall be disconnected and
123 sealed in an appropriate manner subject to a written statement provided to a
124 representative of Muncy Borough, as designated by Borough Council.
- 125 O. Solid waste permit issued by the Pennsylvania Department of Environmental Protection
126 or a letter of approval from the Pennsylvania Department of Environmental Protection
127 for use of a proposed or existing disposal facility which has a permit or is under review
128 for a permit. If applicable, provide proof of certification of responsible person/party for
129 removal and disposal of hazardous waste.
- 130 P. Projected schedule that provides for completing all work in a timely manner.
- 131 Q. Irrevocable written permission for an Inspector, designated by Borough council to enter
132 the property prior to and during the time that the permit is under application, review and
133 effect.
- 134 R. In the event that the demolition work requires the temporary removal of any wires or
135 other impediments to the implementation and/or completion of the demolition work, the
136 property owner shall give the owners of the wires or impediments or anyone affected by
137 the removal of wires or impediments, a minimum notice of 30 days.
- 138 S. Any other information required by Borough Council as relevant to its decision.

139 ADDITIONAL REQUIRED PROOFS AND INFORMATION – For applications for properties
140 located in the overlying Historic District

- 141 A. Recent interior and exterior photographs of the building proposed for demolition, razing
142 or removal acceptable to the Pennsylvania Historic and Museum Commission.

143 ADDITIONAL REQUIRED PROOFS AND INFORMATION – For applications for properties
144 located in the overlying Flood Fringe/Floodway Districts

- 145 A. Copy of the approved Pennsylvania Department of Environmental Protection Chapter
146 106 permit which has been completed by the property owner and contractor.

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150 **Section 5. REVIEW CRITERIA**

151 The following criteria shall be used by all reviewing authorities (Borough Council, Muncy
152 Borough Planning Commission and Muncy Borough Historic Commission) in the determination
153 to recommend, approve or deny a permit application.

154 ADVERSE AFFECTS - The demolition, razing or removal of the structure will not adversely
155 affect the character of the property, streetscape, neighborhood or community. For those
156 structures located within the Overlying Historic District, the demolition, razing or removal will
157 not adversely affect the historic significance or architectural integrity of the neighboring historic
158 buildings or the historic character of the community.

159 **USES OF THE CURRENT STRUCTURE**

- 160 A. It is not feasible to continue the current use.
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- 162 B. Other uses either as permitted uses, special exception uses or conditional uses have
163 been denied or are not feasible due to constraints on the structure or property.
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- 165 C. Adaptive use opportunities do not exist due to constraints related to the structure or
166 property.
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- 168 D. The building, its permitted uses and adaptive use potential does not provide a
169 reasonable rate of return, based on a reasonable initial investment. Such reasonable
170 rate of return shall be calculated with respect to the property taken as a whole.
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- 172 E. Sale or lease of the structure is impossible or impractical.

173 **DEMOLITION BY NEGLECT**

- 174 A. Property owner has not contributed to the existing conditions, either through neglect or
175 prior actions.
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- 177 B. The structure is structurally unsound.
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180 **Section 6. PERMIT FEE**

181 Permit fees are published annually in Muncy Borough's List of Fee and Fines

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183 **Section 7. INSPECTION**

184 Muncy Borough Council shall designate its Zoning Officer or other individual to perform the
185 following inspections. Designated representative shall inspect the demolition site prior to
186 demolition, after the completion of demolition and prior to backfilling and following backfilling
187 and site restoration. Designated representative shall confirm to Borough Council that the
188 demolition work was performed to his/her satisfaction and in accordance with all applicable
189 regulations and/or conditions. The designated representative shall issue a Certificate of
190 Compliance at the successful completion of the project.

191 **Section 8. GENERAL CONDITIONS AND RESTRICTIONS**

192 The following conditions and restrictions apply and must be adhered to for all demolition
193 projects prior to the issuance of a Certificate of Compliance.

- 194 A. Prior to the initiation of any action related to the demolition, razing or removal of any
195 structure, a copy of the approved permit must be on file at the Borough Office.
- 196 B. All work must be conducted in a manner that protects life and property, including
197 neighboring parcels and public property. The contractor shall provide and maintain
198 barricades, lights, fencing, flagmen, watchmen and such other facilities or personnel as
199 may be reasonably necessary and/or reasonably prescribed by the Borough.
- 200 C. Existing trees, shrubs and grass areas that do not have to be disturbed shall be preserved,
201 including replacement if damaged in conjunction with demolition work, unless provided
202 for on the demolition plan.
- 203 D. All debris shall be removed from the demolition site, with the exception of brick, stone,
204 concrete or slate, which may be used to fill in the cellar excavation to within two feet of
205 the surrounding terrain. The top two feet of any filled-in excavation shall be earthen
206 clean fill. No piece larger than six inches through its smallest diameter and not more than
207 12 inches long will be permitted in the backfill in the subsurface spaces.
- 208 E. The Borough will be provided with a certification of backfill, which lists all materials
209 used to backfill.
- 210 F. Burning of any debris on the demolition site is prohibited.
- 211 G. Property owner is responsible for the successful germination of seed and ongoing
212 condition of the site until vegetation is reestablished, including dust control and erosion.
- 213 H. If dust from demolition or loading debris is excessive, watering of the demolition site and
214 rubble shall be performed as work progresses. The determination of whether dust from
215 demolition or loading is excessive shall be made by the Designated Representative and/or
216 Muncy Borough Police Department.
- 217 I. Property owner shall be responsible for cleaning and repairing streets, curbs, driveways,
218 sidewalks and alleys that are damaged or soiled or upon which materials were deposited
219 as a result of the demolition activity. Such cleaning and repair shall be to the satisfaction
220 of the Borough Council upon advice of the Designated Representative.
- 221 J. Property owner or contractor shall furnish, install and maintain ample sanitary facilities
222 for the workers.

223 **Section 9. VIOLATIONS AND PENALTIES**

224 If any property owner and/or contractor initiates any action to demolish, raze or remove any
225 structure without having first received an approved permit to do so, the Borough Manager and/or
226 Zoning Officer shall institute appropriate action or proceeding to prevent, restrain, correct or
227 abate the demolition, razing or removal of said structure. Initiating such an action shall be a
228 violation of this ordinance subject to a penalty of \$300 per violation, per day plus any court costs
229 and reasonable attorney fees which may have been incurred by the Borough.

230 A violation shall occur if any property owner fails to receive a Certificate of Compliance and
231 shall continue to occur each day this failure continues. The penalty shall be \$300 per violation,
232 per day plus any court costs and reasonable attorney fees which may have been incurred by the
233 Borough.

234 **Section 10. EMERGENCY DEMOLITION**

235 In the event of immediate and substantive threat to public health and safety, Muncy Borough
236 Council may consider an application to demolish a structure at an advertised public (regular or
237 special) meeting, where the advertisement has specified that Council will consider demolishing
238 said structure. An approval granted as an emergency does not relieve that property owner of
239 meeting all other requirements of this chapter, specifically Sections 6, 7, 8, 9, 10 and 11.

240 **Section 11. Severability.** The provisions of this Ordinance are severable. If any part of this
241 Ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining
242 provisions shall be unaffected thereby. It is the intention of the Council of the Borough of
243 Muncy that this Ordinance would have been adopted had such unconstitutional, illegal or invalid
244 part not been included.

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246 **Section 12. Repealer.** All ordinances or parts of ordinances inconsistent herewith are hereby
247 repealed. All ordinances not specifically amended hereby remain in full force and effect.

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260 **Section 13. Effective Date.** This Ordinance shall become effective upon its enactment.

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262 ENACTED, this _____ day of _____, 2016.

MUNCY BOROUGH COUNCIL

President

Mayor

Attest:

Secretary

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APPENDIX A

Indemnity and Hold Harmless Agreement

KNOW ALL MEN BY THESE PRESENTS THAT: For and in consideration of the Borough of Muncy issuing a Demolition Permit, I _____ (property owner/contractor) hereby agree to hold the Borough of Muncy, its Agents and Employees harmless from any and all actions, causes of actions, claims, damages, costs, loss of services, attorney fees, expenses and compensation on account of, or in any way arising out of the demolition of building(s) and/or structure(s) as defined by the Muncy Borough Demolition Review Ordinance on the property located at _____ (property address); and further agree to indemnify the Borough of Muncy, its Agents and Employees against any loss as a result of claims of persons or entities arising from the conducting of said demolition.

IN WITNESS WHEREOF, the above named, intending to be legally bound, has executed this Hold Harmless and Indemnification Agreement this _____ day of _____, 2016.

Witness:

Signature

Name

Property Owner/Contractor:

Signature

Name