

DEMOLITION AFFIDAVIT

Non-Historic Structures (Not in an historic district or on an historic site and/or constructed after 1941)

Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of a structure means:

- Demolition of more than fifty (50) percent of all exterior wall areas.
- The remaining exterior wall area must maintain either the existing interior or existing exterior wall covering.

There is an exemption for repair. Please see Section 29.10.020 for the exemption.

Historic Structures (Located in an historic district or on an historic site and/or constructed before 1941)

Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of an historic structure means:

- Removal of more than twenty-five (25) percent of the wall area facing a public street(s) and/or fifty (50) percent of all exterior wall area; or
- Enclosure or alteration of more than twenty-five (25) percent of the wall area facing a public street and/or fifty (50) percent of the exterior wall area so that they no longer function as exterior walls.

No new exterior wall covering shall be permitted over the existing exterior wall covering. There are exemptions for replacement, repair, or removal. Please see Section 29.10.020 for exemptions.

Additional Information:

- When a section of an exterior wall has both the interior and exterior wall covering removed, this section of wall is considered demolished, even if the structural components (i.e. studs or sheathing) of the wall remain, except for specific exemptions for replacement, repair, or removal. Please see Section 29.10.020 for exemptions.
- Dry rot or any other damage does not exempt the project from any provision set forth by Section 29.10.09030. If you find dry rot and need to repair it, **STOP WORK** and contact the Planning Division at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- If you encounter an unanticipated situation that changes the scope of work, **STOP WORK** and contact the Planning Division at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- Exterior wall covering means the exterior finished surface of an exterior wall (i.e. stucco, siding, or shingles).
- Interior wall covering means the interior finished surface of an exterior wall (i.e. sheetrock or plaster).
- Exterior wall means the side of a building connecting foundation and roof. A wall encompasses the total height and width of the side of the building, the exterior or interior wall covering, and studs/structural elements used in framing the wall.
- Existing wall area does not include existing chimneys, existing door openings, and existing window openings.

I have read and understand all the information on this page:

Property Owner (sign and date)	Architect of Record (sign and date)
Engineer of Record (sign and date)	Contractor of Record (sign and date)

DEMOLITION AFFIDAVIT (continued)

Read this entire page, initial by your title, sign, and date at the bottom.

_____ **Property Owner:** I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. Furthermore, I am ultimately responsible for all persons working on this project.

_____ **Architect of Record:** I certify that I have reviewed the project demolition plan/colorized elevations and verify that it is accurate, does not propose a demolition as defined by the Town, and that the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

_____ **Engineer of Record:** I certify that I have reviewed the project demolition plan/colorized elevations, and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

_____ **Contractor of Record:** I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I certify that I have reviewed the project demolition plan/colorized elevations, and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town.

I, **Engineer of Record, Architect of Record, Property Owner, and Contractor of Record**, hereby certify that I have read and fully understand Section 29.10.020 of the Town Code (attached) concerning the definition of an historic structure and the definition of a demolition and that I have read and fully understand Section 29.10.09030 (f) through (l) of the Town Code (attached) concerning penalties associated with unlawful demolition. I understand that if an unlawful demolition occurs, this application and permit will be subject to an additional development review process including a public hearing for which new requirements may be imposed and any existing nonconforming conditions will need to be addressed. New requirements may include undergrounding of electrical service, sidewalk improvements, and right-of-way dedication.

PROJECT ADDRESS	Building Permit Number
Engineer of Record (sign, print, and date)	Property Owner (sign, print, and date)
Architect of Record (sign, print, and date)	Contractor of Record (sign, print, and date)

Excerpts from Los Gatos Town Code

Chapter 29

Section 29.10.020

Demolition (historic structures) means:

- (1) Removal of more than twenty-five (25) percent of the wall(s) facing a public street(s) (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of all exterior walls; or
- (2) Enclosure or alteration (i.e.: new window and/or window relocation) of more than twenty-five percent of the walls facing a public street (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of the exterior walls so that they no longer function as exterior walls; or

All remaining exterior walls must retain the existing exterior wall covering. No new exterior wall covering shall be permitted over the existing exterior wall covering. The following are exempt from this definition:

- a. Replacement. The exterior wall covering may be removed if the covering is not original to the structure.
- b. Repair. The removal and replacement of in kind non-repairable exterior wall covering resulting in no change to its exterior appearance or historic character if approved by the deciding body.
- c. Removal. The removal of an addition(s) that is not part of the original structure and which has no historic significance, as determined by the Historic Preservation Committee. Demolition shall be determined by subsections (1) and (2) above for the original structure, where walls enclosed by additions shall be considered as exterior walls.

Demolition (non historic structures) means removal of more than fifty (50) percent of the exterior walls. The remaining exterior walls must retain either the existing interior or existing exterior wall covering. The following is exempt from this definition:

- a. Repair. The removal and replacement of in kind non-repairable exterior and/or interior wall covering resulting in no change to its exterior appearance or character if approved by the Community Development Director.

Excerpts from Los Gatos Town Code

Chapter 29

Section 29.10.09030

Sec. 29.10.09030. Demolitions.

- (a) Scope. Applications for demolition permits (Uniform Building Code, section 301(a), or any successor section) filed with the Building Department shall be submitted to the Planning Director for approval unless such permit is required as part of a code enforcement action by the Building Official, Council, or other authorized agency.
- (b) Approval of permits. The Planning Director may approve the demolition permit application if:

- (1) It is accompanied by a building permit for a replacement structure which meets all town regulations and has received all required approvals, or
 - (2) It is for demolition of an accessory building or structure.
- (c) Demolition of historic structures. A demolition permit for a historic structure may only be approved if:
- (1) The structure poses an imminent safety hazard; or
 - (2) The structure is determined not to have any special historical, architectural or aesthetic interest or value.

Any request to demolish an historic structure shall be reviewed by the Historic Preservation Committee. All applications to demolish an historic structure which has been identified as a contributor to an existing historic district, a potential historic district, or is eligible for local designation shall be accompanied by a detailed report describing all aspects of the structure's physical condition and shall incorporate pertinent information from the Town's Historic Resources Inventory describing the structure's historical and architectural characteristics. This report shall be prepared by a qualified person knowledgeable in historic preservation under contract with the Town at the applicant's expense. Applications for all other historic structures proposed for demolition shall be accompanied by a detailed report describing all aspects of the structure's physical condition prepared by an architect, licensed design professional or registered civil engineer at the applicant's expense.

(d) Architecture and site approval required. Issuance of a demolition permit requires architecture and site approval if:

- (1) The conditions of subsection (b)(1) are not met, or
- (2) An application is for demolition of an accessory building or structure and the Planning Director determines for any reason that the accessory building or structure ought not to be demolished.

(e) Findings. In architecture and site approval proceedings, the deciding body shall consider:

- (1) Maintaining the Town's housing stock.
- (2) Preservation of historically or architecturally significant buildings or structures.
- (3) Property owner's desire or capacity to maintain the structure.
- (4) Economic utility of the building or structure.

(f) Verification that work will not result in a demolition: Prior to issuance of a building permit and/or zoning approval for an addition where the work will result in the removal of over forty (40) percent of the exterior walls, the developer shall submit written verification from a registered structural engineer, certifying that the exterior walls shown to remain are structurally sound and will not be required to be removed for the addition. Prior to issuance of a building permit, the property owner and contractor shall sign an affidavit to the town that they are aware of the town's definition of a demolition and the penalties associated with an unlawful demolition.

(g) Penalties for unlawful demolition: A property owner who has unlawfully demolished a structure shall:

(1) File the required Planning and Building Department applications and pay the required fees as established by resolution for new applications and for work unlawfully completed.

(2) Be subject to the greater of the following penalties set by the Planning Director as an administration order:

a. If the structure has a Landmark Historic Preservation designation a fine equaling fifteen (15) percent of the building permit valuation at the time of demolition, as determined by the Planning Director; or

b. If the structure was an historic residence and does not have a Landmark Historic Preservation overlay zone, the fine shall be equal to ten (10) percent of the building permit valuation at the time of demolition, as determined by the Planning Director.

If no building permit was issued, the fine shall be assessed on the building permit filed for the replacement structure.

(3) In all cases, no changes to the previously approved plans may be made except as determined by the Planning Director to meet current zoning and building code requirements. No building permits for new construction at this site shall be approved until the required applications have been filed and approved and the required penalty fee has been paid.

(h) Collection of penalty fees. The Town may collect the assessed penalty fees by use of all legal means including the recordation of a lien.

(1) Whenever the amount on the penalty fee pursuant to this chapter has not been satisfied in full within ninety (90) days and/or has not been successfully challenged by a timely writ of mandate, this obligation may constitute a lien against the real property on which the violation has occurred.

(2) The lien provided herein shall have no force and effect until recorded with the county recorder. Once recorded, the administration order shall have the force and effect and priority of a judgment lien governed by the provisions of sections 697.340 of the Code of Civil Procedure and may be extended as provided in sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure.

(3) Interest shall accrue on the principal amount of the judgment remaining unsatisfied pursuant to law.

(4) Prior to recording any such lien, the Planning Director shall prepare and file with the Town Clerk a report stating the amounts due and owing.

(5) The Town Clerk shall fix a time, date and place for hearing such report and any protests or objections thereto by Town Council.

(6) The Planning Director shall cause written notice to be served on the property owner not less than ten (10) days prior to the time set for the hearing.

a. Demolition for Corrective Maintenance. If during the construction process for an approved construction the developer has determined that the structure is in a deteriorated condition that cannot be

repaired, an architecture and site application can be filed requesting a demolition without a penalty provided the following conditions have been met:

1. Construction work has ceased, and
2. The work completed prior to filing the application does not classify as a demolition, and
3. Documentation has been provided to justify the necessity of the demolition, and

4. No changes to the previously approved plans will be made except as determined by the Planning Director to meet current zoning and building code requirements. If a planning filing fee was paid for the original addition, this fee shall be credited to the architecture and site application fee. If the Development Review Committee determines that the application cannot be approved, the applicant shall pay the credited fee for the architecture and site application if the application is appealed to the Planning Commission.

(j) **Salvage of Building Materials.** When demolition of a structure is allowed, the town shall provide the developer of the structure to be demolished with information about the salvaging of building materials. At least ten (10) days prior to the date when the demolition is scheduled to commence, the developer shall provide the Planning Director with written notice, and an advertisement published in a newspaper of general circulation, of the availability of materials for salvage, including the name and telephone number of a contact person. Upon request, the Planning Director may make this information available to persons who may be interested in contacting the owner(s) to arrange for possible salvage of building materials. No salvaging of materials shall occur until a demolition permit has been approved by the Building Department.

(Ord. No. 1316, §§ 3.65.010--3.65.040, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 1789, § V, 5-15-89; Ord. No. 1887, § I, 2-3-92; Ord. No. 2083, § I, 5-7-01)