



## Planning Commission **STAFF REPORT**

*Gina Frierman-Hunt, Chair*  
*Bob Spears, Vice-Chair*  
*Matthew Buckles, Commissioner*  
*Manish Desai, Commissioner*  
*Leslee Hinton, Commissioner*  
*John Hutt, Commissioner*  
*William Pevsner, Commissioner*

*Vincent Gonzalez, Director*  
*Planning & Community Preservation*

DATE: January 19, 2017

TO: Planning Commission

FROM: Vincent Gonzalez, Director – Planning and Community Preservation

**SUBJECT: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SIERRA MADRE RECOMMENDING APPROVAL TO THE CITY COUNCIL OF MUNICIPAL CODE TEXT AMENDMENT 16-05 (MCTA 16-05) AMENDING SECTION 17.60.056 (“DISCRETIONARY DEMOLITION PERMIT”) OF CHAPTER 17.60 (“VARIANCES AND CONDITIONAL USE PERMITS”) AND SECTIONS 15.04.115-SECTION 105.7 (“DEMOLITION PERMITS”), AND SECTION 15.52.060 (“CALCULATION OF FEES”) OF CHAPTER 15.04 (“BUILDING CODE AND PERMITS”) OF THE SIERRA MADRE MUNICIPAL CODE.**

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### **SUMMARY**

At the meeting held on December 15, 2016 and November 17, 2016, the Planning Commission reviewed and discussed the proposed amendments to Section 17.60.056 (“Discretionary Demolition Permit”), Section 15.04.115-Section 105.7 (“Demolition Permits”), and Section 15.52.060 (“Calculation of Fees”). The revised language included in the Analysis Section of this report highlights those changes agreed upon by the Commission at the December 15, 2016 meeting, when staff was given direction to return with a Resolution including those changes for recommendation to the City Council at a noticed public hearing. Attached as Exhibit A for the Planning Commission’s consideration is Resolution 16-13.

### **ANALYSIS**

#### ***Excerpts from Planning Commission Resolution 16-13***

At the meeting of December 15, 2016, the Commission directed staff to include two recommendations to the City Council in the Planning Commission Resolution. The recommendations incorporated into Planning Commission Resolution 16-13 read as follows:

**WHEREAS**, the Planning Commission recommends to the City Council that a citywide comprehensive survey of properties 75 years and older be commissioned to compile an inventory of potential historic resources under the guidelines of the State Office of Historic Preservation; and

**WHEREAS**, the Planning Commission also recommends to the City Council to waive 100% of any planning entitlement, building fees, and Mills Act Contract to encourage the rehabilitation of designated historical landmarks, and

***Municipal Code Text Amendments Discussed at the December 15, 2016 Meeting***

The Commission made the following additional Municipal Code text amendments highlighted in purple below. All incorporated changes to Chapter 17.60 are shown as underline strikeout in Exhibit A attached to the staff report.

Code Section 17.60.056.B-Definition.

For purposes of this section, “demolition is defined as the destruction and removal, in part ~~or~~ in whole, of the foundation, exterior walls, ~~or~~ roof structure, exterior framing, exterior siding and/or finish cladding material, porches, chimney and architectural details, including supporting members of a single family dwelling or duplex.

*Revision: The revision combines exterior siding and finish cladding material into one statement.*

Code Section 17.60.056.D-Procedure:

Any application for a discretionary demolition permit shall be accompanied by (i) a written historic assessment or survey completed by a qualified historic preservation consultant selected from the list maintained by the city which concludes that the property proposed to be demolished is not classified under the California Historic Resource Codes 1 to 5 - eligible for local listing or designation, or a contributor to an existing or potential district and (ii) an application for replacement development project consistent with the standards and requirements of the applicable zoning district, and (iii) an affidavit of posting of a sign at least three feet by four feet in size, located in a conspicuous place on the property abutting a public street or alley, identifying the property as the subject of an application for a demolition permit. Both the discretionary demolition permit and the application for the replacement development project shall be reviewed concurrently and no discretionary demolition permit shall be approved unless and until the replacement development project is approved.; ~~and (iv) The reviewing body for a demolition permit shall be the same body or individual that would review and approve the accompanying replacement development project.~~

- ~~1. The reviewing body for a demolition permit and accompanying replacement development project which would not require a conditional use permit or variance under Section 17.60.030 is the planning director.~~

- ~~2. The reviewing body for a demolition permit and an accompanying replacement development project which would require a conditional use permit or variance or minor conditional use permit is the planning commission.~~

*Revision: The revision simplifies the language of the reviewing body for an accompanying application.*

Code Section 17.60.056.E.

~~A discretionary demolition permit may be approved if the reviewing body makes one of the following determinations: No discretionary demolition permit shall be approved unless the reviewing body determines one of the following:~~

1. The ~~residential~~ structure proposed to be demolished is neither designated on the local list of historic resources nor eligible for designation as an individual resource or contributor to a district or potential district, and the replacement development project is approved; or
2. The city engineer or building official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.

*Revision: The revision expands the discretionary demolition permit to all structure types by omitting "residential" from the section.*

17.60.056.F-Exceptions.

The following applications do not require a discretionary demolition permit:

- ~~1. Demolition of up to twenty-five percent or less of the exterior walls of the structure, when all of the following conditions exist:~~
  - ~~a. The demolition is required for an addition/alternation to the structure that is permitted by code;~~
  - ~~b. The addition is permitted at the same time as the required demolition;~~
  - ~~c. Neither the demolished portion of the structure nor the addition impacts the original front façade of the structure; and~~
  - ~~d. The site plan and all required permits for the remodel have been approved by the applicable city reviewing authority.~~
- 1.2. Demolition of any interior walls of any structure for the purpose of remodel, repair or maintenance, subject to any required permits;

~~2.3.~~ Removal and replacement, subject to any required permits, of exterior windows, doors, roof covering, foundation, exterior siding, and/or finishing cladding material, porches, chimney, architectural details and other structural or decorative elements deemed by the director of planning and community preservation to be minor alterations, where the materials used for maintenance and replacement do not alter the appearance, size or character of the existing structure;

~~3.4.~~ Any proposed demolition of a structure constructed less than seventy-five years from the date of the applications, which is subject to the provisions of Section 15.04.115;

~~4.5.~~ Any proposed demolition of a historic landmark which is subject to the provisions of Section 17.82.090;

~~5.6.~~ The director may rely on definitions and permitting processes in the municipal code to consider circumstances which do not meet the exact criteria defined in exceptions 1-5 above, to determine that a specific case meets the intent of one or more of the exceptions.

6. The director may refer any applications that do not require a discretionary demolition permit to the Planning Commission if the director determines at the director's sole discretion that the proposed development has the potential to result in significant impacts to the structure. In the event the director refers an application to the Planning Commission, the Planning Commission shall follow the requirements for a discretionary demolition permit as set forth in this Chapter.

*Revision: The revision to Section 17.60.056 F.2 includes "porches" and "chimneys" as a minor alteration.*

*The revision to Section 17.60.056 F.6 allows the Planning Director to refer applications to the Planning Commission for review if the Director determines that that demolition may result in significant impacts to the structure.*

#### Section 17.60.056 H-Burden of Proof on Applicant

H. Burden of Proof on Applicant. Before any demolition permit is granted, the application shall show, to the reasonable satisfaction of the body considering such matter, the existence of the following facts:

1. That the structure proposed for demolition:
  - a. Has no local, state or national historic significance as determined by the historic resources survey pursuant to subsection D.1 above;
  - or

- b. Is deemed to be eligible for local listing or designation under the California Historic Resource Codes 1 to 5, or a contributor to an existing or potential district, and all environmental review has been conducted, and/or a historical resources evaluation report with identified mitigation measures has been prepared that will allow the project to proceed, with identified mitigation measures, including, but not limited to construction of a replacement structure in substantially similar architectural style and façade, maintenance of a plaque, photographs and/or publication describing the original structure and its local, state or national historic value, or other mitigation measures described in the environmental review document; or
- c. The city engineer or building official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.

*Revision: The revision incorporates the language designating the building official to determine when a property is an imminent hazard to public safety.*

Code Section 15.04.115 Section 105.7.J-Demolition Permits (Attachment B)

- J. Penalty for demolition without permit. The City intends to secure compliance with regulations restricting demolition of structures without a demolition permit or certificate of appropriateness, by any of the following alternate, separate and distinct methods. Each method set forth herein is not intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance nor does it prevent utilization of any other enforcement mechanisms and/or penalties available by law. Each day a violation exists constitutes a separate offense.
  - 1. Any person, firm or corporation demolishing a structure without a permit shall be guilty of a misdemeanor, and upon conviction of any such person shall be punishable by a fine of not more than one thousand dollars or by imprisonment in the city jail for not more than one hundred eighty days, or by both such fine and imprisonment. Additionally, in accordance with Section 15.52.060 C, structures demolished without permits shall not be awarded impact credits toward fees charged for future development.
  - 2. In accordance with Section 15.52.060 C, structures demolished without permits shall not be awarded impact credits toward fees charged for future development.
  - 3. Administrative Citation. Upon a finding that a violation of this code exists, the enforcement officer vested with the authority to enforce the various provisions of this code may issue an administrative citation under the provisions of Chapter 1.18.
  - 4. Restriction on development of property, pursuant to Sections 15.04.115 K, L, or M

K. Demolition of Historic Structure. A structure designated as a historic resource shall not be demolished without a certificate of appropriateness issued pursuant to the provisions of ~~s~~Section 17.82.090 or a certificate of economic hardship pursuant to ~~s~~Section 17.82.100.

1. If a structure that is ~~deemed to be~~ a historic resource is wholly or partially demolished without a permit, the owner/violator shall appear before the planning commission at a show cause hearing to determine whether the unlawful demolition may be mitigated by reconstruction and restoration of the original historic resource or other mitigation measures or whether the project site shall remain undeveloped for a period of years, as set forth in subsection 2.b. below. To facilitate its decision, the commission may require the owner/violator to undertake one of more of the following and submit the results for commission determination:
  - a) Prepare a historical resource evaluation report with identified mitigation measures prepared by a qualified architectural historian selected from the list of qualified consultants on file with the Planning and Community Preservation Department at the owner's expense;
  - b) Conduct environmental review;
  - c) Apply for a certificate of appropriateness pursuant to Section 17.82.090.
2. As a result of the show cause hearing, the Planning Commission may require the owner/violator to do one of the following:
  - a) The violator shall within one year completely rebuild the demolished structure to its pre-existing historic character as described in the historical resources evaluation report condition and shall submit a surety bond that shall be in amount equal to the replacement value as calculated by the Planning and Community Preservation Department; or
  - b) ~~The City may rebuild it within one year period placing the costs thereof as a lien on the property which shall indemnify the city against all costs so incurred and all liabilities arising there from; or~~
  - b) If the violator proposes to construct a replacement project rather than rebuild the demolished designated historical structure to its pre-existing historic character, No building or construction-related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of five years; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. \_specified time period, as follows: for five years, if the structure was listed on the local, state, or Federal Registry of Historic Resources. In addition, for a historic structure, a cultural resources report shall be prepared at the property owner's expense. For the purposes of this section, the demolition shall be presumed to have occurred on the date the city has actual knowledge of the demolition. The owner shall have the burden of proving a different date if one is claimed. Such waiting period shall be



~~for the purpose of consideration of rebuilding, relocation, grants, etc.,  
for replacement.~~

- c) The planning commission shall review the rebuild or replacement project in concept prior to plan check submittal.

L. Demolition of Eligible Historic Structure. A structure that is deemed to be eligible as a historic resource under the California Historic Resource Codes 1 to 5, or a contributor to an existing or potential district, shall not be demolished without conducting environmental review and/or a historical resource evaluation report with identified mitigation measures that will allow the project to proceed with a certificate of appropriateness pursuant to the provision of section 17.82.090 and applicable demolition permit.

1. If an eligible historic structure is demolished without a demolition permit or certificate of appropriateness, the owner shall be required to prepare a historical resource evaluation report with identified mitigation measures prepared by a qualified architectural historian selected from the list of qualified consultants on file with the Planning and Community Preservation Department at the owner's expense and shall appear before the planning commission for a show cause hearing pursuant to Section 15.04.115 K(1)(a-c).

- a) If the historical resource evaluation report determines that a partially demolished structure, if reconstructed with similar materials and as otherwise mitigated consistent with the evaluation report will result in a structure which is eligible for designation on a local, state or Federal Registry of Historic Resources, the violator shall within one year completely rebuild the demolished structure to its pre-existing condition/architectural character.
- b) If the violator proposes to construct a replacement project other than rebuild the demolished structure to its pre-existing condition, no building or construction related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of three years, if the structure was deemed eligible for listing on the local, state, or Federal Registry of Historic Resources; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. For the purposes of this section, the demolition shall be presumed to have occurred on the date the city has actual knowledge of the demolition. The owner shall have the burden of proving a different date if one is claimed.
- c) The Planning Commission shall review the rebuild or replacement project in concept prior to plan check submittal.

M. Demolition of Non-historic Structure. No structure shall be demolished, in whole or in part, without obtaining a demolition permit.

1. If a structure that is not eligible as a historic resource, or a contributing building in a potential or designated district is demolished without a demolition permit:
  - a) The violator shall within one year completely rebuild the demolished structure to pre-existing condition;
  - b) If the violator proposes to construct a replacement project other than rebuild the demolished structure to its pre-existing condition, no building or construction related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of 12 months; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. This penalty applies solely to illegal demolition of primary structures on a site and does not apply to accessory structures; and
  - c) The Planning Commission shall review the rebuild or replacement project in concept prior to plan check submittal.

N. Appeal. Any interested party may appeal a decision of the planning commission pursuant to Section 54.04.115 K, L or M to the city council by filing a written request for appeal with the city clerk within 10 days from the date of the Planning Commission's decision..

O.2. ~~The director of development services~~ Planning and Community Preservation shall cause notice that this section is applicable to property to be served by mail on the person shown as the owner on the rolls of the tax assessor, and on any other person known to have an interest in the property, as soon as practicable after having knowledge that the provisions of this section are applicable to property. The date the city first had actual knowledge of the demolition shall be stated in the notice. The provisions of this subsection are directory only.

P.3. ~~The decision of the~~ Director of Planning and Community Preservation that this section is applicable may be appealed by the property owner to the Planning Commission ~~city council~~. The Planning Commission ~~city council~~ may grant relief from the requirements of this section if the demolition in violation of this section was not done to any of the following:

- 1.a) A building or structure deemed eligible for landmark status;
- 2.b) A building or structure listed or deemed eligible for listing in the National Register of Historic Places;
- 3.e) A building or structure listed or deemed eligible for listing in the California Register of Historical Resources;
- 4.e) Any cultural resource determined to have historic significance.

*Revisions: Section 15.04.115 J has been augmented to provide additional penalty options for an illegal demolition. The new subsections include provision that excludes projects from receiving impact credits toward fees charged for future development; issuance of administrative citations, and restriction on development of property.*



*Revisions to Section 15.04.115 (K, L, and M) outline the requirements and penalties for the illegal demolition or a historic structure, an eligible historic structure, and full demolition of non-historic structures.*

*Revisions to Section 15.04.115 Section 105.7 (O, P) allow the decision of the Planning Director to be appealed by the property owner to the Planning Commission.*

*A new section 15.04.115 N clarifies that an appeal of a Planning Commission determination regarding an illegal demolition may be appealed to the City Council.*

## **PURPOSE AND CONSISTENCY WITH THE GENERAL PLAN**

The proposed amendments are required out of public necessity, convenience and general welfare (SMMC 17.64.010) as they would further the goals of preserving the small town character of the community, and promoting neighborhood consistency.

## **ENVIRONMENTAL**

There is no possibility the adoption of this Ordinance may have a significant effect on the environment, because it will impose greater limitation on development in the City and protect the aesthetic character of Sierra Madre and potential loss of potential historic resources 75 years of age or older, thereby serving to reduce potential significant adverse environmental impacts. The adoption of this ordinance is, therefore exempt from California Environmental Quality Act (CEQA) review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

## **PUBLIC NOTICE PROCESS**

This item has been noticed through the regular agenda notification process. Notice of the hearing was published consistent with the requirements of Government Code Section 65090, including publication of a notice of public hearing in the local adjudicated newspaper. Notice of the hearing was also published through the City's E-blast electronic notification process, and on the City's website and Facebook page. Copies of this report are available at the City Hall public counter, on the City of Sierra Madre website, and the City of Sierra Madre Public Library.

## **ALTERNATIVES**

The Planning Commission can consider the following alternatives:

1. Recommend approval of MCTA 16-05 pursuant to Resolution 16-13.
2. Recommend approval of MCTA 16-05, with modifications.

3. Recommend denial of MCTA 16-05.
4. Continue the matter and provide direction to Staff.

### **RECOMMENDATION**

Staff recommends Alternative No. 1; that the Planning Commission recommend to the City Council adoption of Municipal Code Text Amendment 16-05, amending Section 17.60.056 (“Discretionary Demolition Permit”), Section 15.04.115-Section 105.7 (“Demolition Permits”), Section 15.52.060 (“Calculation of Fee”), pursuant to Planning Commission Resolution 16-13.

#### **Attachments:**

- Exhibit A – Planning Commission Resolution 16-13
- Exhibit B – Chapter 17.60.056-Discretionary Demolition Permit (redline)
- Exhibit C – Section 15.04.115-Section 105.7 Demolition Permits (redline)
- Exhibit D – Section 15.52.060-Calculation of fee (redline)
- Exhibit E – Draft City Council Ordinance 1386

# EXHIBIT A

## Planning Commission Resolution 16-13

January 19, 2017

## **PC RESOLUTION 16-13**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SIERRA MADRE RECOMMENDING APPROVAL TO THE CITY COUNCIL OF MUNICIPAL CODE TEXT AMENDMENT 16-05 (MCTA 16-05) AMENDING SECTION 17.60.056 (“DISCRETIONARY DEMOLITION PERMIT”) OF CHAPTER 17.60 (“VARIANCES AND CONDITIONAL USE PERMITS”) AND SECTIONS 15.04.115-SECTION 105.7 (“DEMOLITION PERMITS”), AND SECTION 15.52.060 (“CALCULATION OF FEES”) OF CHAPTER 15.04 (“BUILDING CODE AND PERMITS”) OF THE SIERRA MADRE MUNICIPAL CODE.**

**WHEREAS**, on March 24, 2015, the City Council adopted Ordinance 1363 adding a new Section 17.60.056 (“Discretionary Demolition Permit”); and

**WHERE AS**, the purpose of the discretionary demolition permit procedure is to insure that potential historic resources are properly evaluated before they are altered or removed, and

**WHEREAS**, the amendment revises Section 17.060.056 (“Discretionary Demolition Permit”) of Title 17 (“Zoning”) of the Municipal Code amending the requirement of single family homes and duplexes 75-years and older in the Zoning Code, eliminating the exception to allow demolition of up to 25% of exterior walls, and eliminating the restriction requiring only single family homes and duplexes to abide by the discretionary demolition permit requirement, thereby expanding the application of the ordinance to all structures 75-years and older constructed from the date of the application for review; and

**WHEREAS**, the amendment revises Section 15.04.115-Section 105.7 (“Demolition Permits”), of Title 15 (“Building and Construction”) of the Municipal Code revising penalties for the illegal demolition of an historic resource, and establishing new penalties for the demolition of eligible historic resources, and the full and partial demolition of non-historic structures; and

**WHEREAS**, the amendment will also revise Section 15.52.060 (“Calculation of Fees”) in Chapter 15.52 (“Building and Construction”) of the Municipal Code eliminating the award of impact credits toward future development for structures that have been demolished without permits; and

**WHEREAS**, the Planning Commission recommends to the City Council that a citywide comprehensive survey of properties 75 years and older be commissioned to compile an inventory of potential historic resources under the guidelines of the State Office of Historic Preservation; and

**WHEREAS**, the Planning Commission also recommends to the City Council to waive

100% of any planning entitlement, building fees, and Mills Act Contract to encourage the rehabilitation of designated historical landmarks, and

**WHEREAS**, the purpose of the amendments are consistent with the General Plan. The proposed amendments are required out of public necessity, convenience and general welfare (SMMC 17.64.010) as they would further the goals of preserving the small town character of the community, and promoting neighborhood consistency. The proposed amendments are generally consistent with the goals, policies, and objectives of the General Plan in that the amendments would encourage the preservation of potential historic resources and significant architectural and historical landmarks and districts by imposing more stringent penalties for illegal demolition.

**WHEREAS**, that there is no possibility the adoption of this Ordinance may have a significant effect on the environment, because it will impose greater limitation on development in the City and protect the aesthetic character of Sierra Madre and potential loss of potential historic resources 75 years of age or older, thereby serving to reduce potential significant adverse environmental impacts. The adoption of this ordinance is, therefore exempt from California Environmental Quality Act (CEQA) review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

**WHEREAS**, the Planning Commission has received the reports and recommendations of staff on November 17, 2016 and December 15, 2016, and

**WHEREAS**, notice was duly given of the public hearing on January 19, 2017, with all testimony received being made part of the public record.

**NOW THEREFORE**, in consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission resolves as follows:

The Planning Commission recommends that the City Council approve Ordinance 1386 amending Municipal Code Section 17.60.056–Discretionary Demolition Permit Requirements, Section 15.04.115 Section 105.7-Demolition Permits and penalty for Demolition without a Permit, and Chapter 15.52.060 Calculation of Fees, which are attached hereto as Exhibits B, C, and D, respectfully.

**APPROVAL RECOMMENDED**, this 19<sup>th</sup> day of January 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Gina Frierman-Hunt  
Chair, Planning Commission

ATTEST:

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Vincent Gonzalez, Director  
Planning & Community Preservation Department



# EXHIBIT B

Chapter 17.60.056  
Discretionary Demolition Permit  
(Redline Ordinance January 19, 2017)

## 17.60.056 - Discretionary Demolition Permit.

- A. Purpose. The purpose of ~~athe~~ discretionary demolition permit procedure is to insure that potential historic resources are properly evaluated before they are altered or ~~removed~~ demolished.
- B. For purposes of this section, "demolition is defined as the destruction and removal, in part or in whole, of the foundation, exterior walls, ~~or~~ roof structure, exterior framing, exterior siding and/or finish cladding material, porches, chimney and architectural details. ~~including supporting members of a single family dwelling or duplex.~~
- C. No structure ~~single-family dwelling or duplex~~ which was constructed seventy-five years or more prior to the date of the application for review shall be demolished without a discretionary demolition permit.
- D. Procedure: Any application for a discretionary demolition permit shall be accompanied by (i) a written historic assessment or survey ~~completed~~ prepared by a qualified architectural ~~historian~~ ~~preservation consultant~~ selected from the list of qualified consultants on file with the Planning and Community Preservation Department maintained by the city which concludes that the property proposed to be demolished is not classified under the California Historic Resource Codes 1 to 5 - eligible for local listing or designation, or a contributor to an existing or potential district and (ii) an application for replacement development project consistent with the standards and requirements of the applicable zoning district, and (iii) an affidavit of posting of a sign at least three feet by four feet in size, located in a conspicuous place on the property abutting a public street or alley, identifying the property as the subject of an application for a demolition permit. Both the discretionary demolition permit and the application for the replacement development project shall be reviewed concurrently and no discretionary demolition permit shall be approved unless and until the replacement development project is approved. The reviewing body for a demolition permit shall be the same body or individual that would review and approve the accompanying replacement development project.
  - ~~1. The reviewing body for a demolition permit and accompanying replacement development project which would not require a conditional use permit or variance under Section 17.60.030 is the planning director.~~
  - ~~2. The reviewing body for a demolition permit and an accompanying replacement development project which would require a conditional use permit or variance or minor conditional use permit is the planning commission.~~

- E. ~~A discretionary demolition permit may be approved if the reviewing body makes one of the following determinations: No discretionary demolition permit shall be approved unless the reviewing body determines one of the following:~~
1. The ~~residential~~ structure proposed to be demolished is neither designated on the local list of historic resources nor eligible for designation as an individual resource or contributor to a district or potential district, and the replacement development project is approved; or
  2. The city engineer or building official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.
- F. Exceptions. The following applications do not require a discretionary demolition permit:
- ~~1. Demolition of up to twenty-five percent or less of the exterior walls of the structure, when all of the following conditions exist:~~
    - ~~a. The demolition is required for an addition/alternation to the structure that is permitted by code;~~
    - ~~b. The addition is permitted at the same time as the required demolition;~~
    - ~~c. Neither the demolished portion of the structure nor the addition impacts the original front façade of the structure; and~~
    - ~~d. The site plan and all required permits for the remodel have been approved by the applicable city reviewing authority.~~
  12. Demolition of any interior walls of any structure for the purpose of remodel, repair or maintenance, subject to any required permits;
  23. Removal and replacement, subject to any required permits, of exterior windows, doors, roof covering, foundation, exterior siding and/or finish cladding material, porches, chimney, architectural details and other structural or decorative elements deemed by the director to be minor alterations, where the materials used for maintenance and replacement do not alter the appearance, size or character of the existing structure;
  34. Any proposed demolition of a structure constructed less than seventy-five years from the date of the applications, which is subject to the provisions of [Section 15.04.115](#);
  45. Any proposed demolition of a historic landmark which is subject to the provisions of [Section 17.82.090](#);
  56. The director may rely on definitions and permitting processes in the municipal code to consider circumstances which do not meet the exact

criteria defined in exceptions 1—5 above, to determine that a specific case meets the intent of one or more of the exceptions.

6. The director may refer any applications that do not require a discretionary demolition permit to the planning commission if the director determines at the director's sole discretion that the proposed development has the potential to result in significant impacts to the structure. In the event the director refers an application to the planning commission, the planning commission shall follow the requirements for a discretionary demolition permit as set forth in this Chapter.

G. An applicant who does not qualify for a discretionary demolition permit under subsection E or H of this section may seek a certificate of economic hardship pursuant to [Section 17.82.100](#).

H. Burden of Proof on Applicant. Before any demolition permit is granted, the application shall show, to the reasonable satisfaction of the body considering such matter, the existence of the following facts:

1. That the structure proposed for demolition:
  - a. Has no local, state or national historic significance as determined by the historic resources survey pursuant to subsection D.1 above; or
  - b. Is deemed to be eligible for local listing or designation under the California Historic Resource Codes 1 to 5, or a contributor to an existing or potential district, and all environmental review has been conducted, and/or a historical resources evaluation report with identified mitigation measures has been prepared that will allow the project to proceed, ~~with identified mitigation measures~~, including, but not limited to construction of a replacement structure in substantially similar architectural style and façade, maintenance of a plaque, photographs and/or publication describing the original structure and its local, state or national historic value, or other mitigation measures described in the environmental review document; or
  - c. The city engineer or building official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.
2. That the proposed demolition activities will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties;
3. That there is a demonstrated need for the demolition activity requested;
4. That the result of the demolition activity is consistent with the objectives of the general plan; and

5. That the public interest, convenience, and necessity require that the demolition activity be undertaken at the location requested.

I. Appeal.

1. Any person may appeal a decision of the planning director to the planning commission pursuant to [Section 17.60.115](#).
2. Any person may appeal a decision of the planning commission to the city council pursuant to Sections [17.60.120](#) and [17.60.130](#).

(Ord. No. 1363, § 2, 3-24-15)

# EXHIBIT C

Chapter 15.04.115

Section 105.7 Demolition Permits

(Redline Ordinance January 19, 2017)



#### 15.04.115 - Section 105.7 Demolition Permits.

The following is added to Section 105 of the 2013 California Building Code:

##### Section 105.7 Demolition Permits

- A. Except for a demolition permit issued pursuant to Section 17.60.056 or certificate of appropriateness issued pursuant to Section 17.82.090, no permit for the demolition of all or any substantial portion of any building in the city shall be issued for a period of thirty days after such application is made. For the purposes of this chapter, demolition shall be considered the alteration, reconstruction, or elimination of 50% or more, of the floor area or monetary value. Projects that involve less than 50% of the alteration, reconstruction, or elimination of the floor area or monetary value may still be subject to requirements of Chapter 8.13 and/or 12.20 of this code.
- B. There is a 30 day wait period after the application is submitted.
- C. Within 10 days of the application, the applicant should submit a mitigation plan for vermin, noise, dust, asbestos, salvage, trash removal, air pollution, historic preservation, and neighborhood peace and enjoyment. Failure to submit such mitigation report may be grounds for denying such permit.
- D. Notice of the application for a demolition permit shall be made available within three days to every city councilmember and city official. Copies of the applicant's mitigation report shall also be made in similar fashion.
- E. Prior to the release of the demolition permit, the applicant shall demonstrate that notification of, and compliance with, the following:
  - 1. South Coast Air Quality Management District (AQMD);
  - 2. Electricity provider;
  - 3. Natural gas provider; and
  - 4. City Department of Public Works (Chapters 8.13 and 12.20.)
- F. Prior to the issuance of a demolition permit, the applicant shall file a site plan and application for review and approval of his/her intended reuse of the property with planning and community preservation department. Such plan shall indicate the intended use and condition of the property after the demolition of structures requested within the demolition permit is concluded ("replacement project.") No demolition permit shall issue until the applicant has obtained approval of the replacement project from the applicable reviewing body except when the City Engineer or Building Official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.
- G. Notwithstanding any other provision of this chapter, in the event of an immediate threat to the public health, safety and welfare, the thirty-day "wait" period for the issuance of a demolition permit may be waived. Evidence of such an immediate threat shall be submitted by the applicant to the director of planning and community preservation. Upon receipt of such information, the director of planning and community preservation shall determine if an immediate threat to the public health, safety and welfare exists.
- H. The filing of any notice or report, as called for herein, is not intended to vest any discretion (under CEQA or otherwise) in the building official to deny such application. Instead, at the end of the

thirty-day period, such permit shall be issued unless such issuance is contrary to any law or regulation applicable at that date.

- I. To the extent, if any, that this Section 115 differs from the 2013 California Building Code (CBC), the city council finds that there are conditions unique to this city that justify such change, including high fire danger, steep hillsides, vermin infestation, wildlife and asbestos levels, the issuance of a demolition permit shall be considered a ministerial duty under the provisions of CEQA Section 15268 except for historical and unique archeological resources as outlined in CEQA Section 15064.5.
- J. Penalty for demolition without permit. The City intends to secure compliance with regulations restricting demolition of structures without a demolition permit or certificate of appropriateness, by any of the following alternate, separate and distinct methods. Each method set forth herein in not intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance nor does it prevent utilization of any other enforcement mechanisms and/or penalties available by law. Each day a violation exists constitutes a separate offense.
  1. Any person, firm or corporation demolishing a structure without a permit shall be guilty of a misdemeanor, and upon conviction of any such person shall be punishable by a fine of not more than one thousand dollars or by imprisonment in the city jail for not more than one hundred eighty days, or by both such fine and imprisonment.
  2. In accordance with Section 15.52.060 C, structures demolished without permits shall not be awarded impact credits toward fees charged for future development.
  3. Administrative Citation. Upon a finding that a violation of this code exists, the enforcement officer vested with the authority to enforce the various provisions of this code may issue an administrative citation under the provisions of Chapter 1.18.
  4. Restriction on development of property, pursuant to Sections 15.04.115 K, L, or M.
- K. Demolition of Historic Structure. A structure designated as a historic resource shall not be demolished without a certificate of appropriateness issued pursuant to the provisions of ~~s~~Section 17.82.090 or a certificate of economic hardship pursuant to ~~s~~Section 17.82.100.
  1. If a structure that is ~~deemed to be~~ designated as a historic resource is wholly or partially demolished without a permit, the owner/violator shall appear before the planning commission at a show cause hearing to determine whether the unlawful demolition may be mitigated by reconstruction and restoration of the original historic resource or other mitigation measures or whether the project site shall remain undeveloped for a period of years, as set forth in subsection 2.b. below. To facilitate its decision, the commission may require the owner/violator to undertake one of more of the following and submit the results for commission determination:
    - a) Prepare a historical resource evaluation report with identified mitigation measures prepared by a qualified architectural historian selected from the list of qualified consultants on file with the planning and community preservation department at the owner's expense;
    - b) Conduct environmental review;
    - c) Apply for a certificate of appropriateness pursuant to Section 17.82.090.
  2. As a result of the show cause hearing, the planning commission may require the owner/violator to do one of the following:
    - a) The violator shall within one year completely rebuild the demolished structure to its pre-existing ~~condition and shall submit a surety bond that shall be in amount equal to~~

~~replacement value as calculated by the department of development services; historic character as described in the historical resources evaluation report; or~~

~~b) The City may rebuild it within one-year period placing the costs thereof as a lien on the property which shall indemnify the city against all costs so incurred and all liabilities arising there from; or~~

b) ~~If the violator proposes to construct a replacement project rather than rebuild the demolished designated historical structure to its pre-existing historic character, No building or construction-related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of five years; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. -specified time period, as follows: for five years, if the structure was listed on the local, state, or Federal Registry of Historic Resources. In addition, for a historic structure, a cultural resources report shall be prepared at the property owner's expense. For the purposes of this section, the demolition shall be presumed to have occurred on the date the city has actual knowledge of the demolition. The owner shall have the burden of proving a different date if one is claimed. Such waiting period shall be for the purpose of consideration of rebuilding, relocation, grants, etc., for replacement.~~

L. Demolition of Eligible Historic Structure. A structure that is deemed to be eligible as a historic resource under the California Historic Resource Codes 1 to 5, or a contributor to an existing or potential district, shall not be demolished without prior environmental review and/or a historical resource evaluation report with identified mitigation measures that will allow the project to proceed with a certificate of appropriateness pursuant to the provision of section 17.82.090 and applicable demolition permit.

1. If an eligible historic structure is demolished without a demolition permit or certificate of appropriateness the owner shall be required to prepare a historical resource evaluation report with identified mitigation measures prepared by a qualified architectural historian selected from the list of qualified consultants on file with the Planning and Community Preservation Department at the owner's expense, and shall appear before the planning commission for a show cause hearing pursuant to Section 15.04.115K(1)(a-c):

a) If the historical resource evaluation report determines that a partially demolished structure, if reconstructed with similar materials and as otherwise mitigated consistent with the evaluation report will result in a structure which is eligible for designation on a local, state or Federal Registry of Historic Resources, the violator shall within one year completely rebuild the demolished structure to its pre-existing condition and architectural character.

b) If the violator proposes to construct a replacement project other than rebuild the demolished structure to its pre-existing condition, no building or construction related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of three years, if the structure was deemed eligible for listing on the local, state, or Federal Registry of Historic Resources; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. For the purposes of this section, the demolition shall be presumed to have occurred on the date the city has actual knowledge of the demolition. The owner shall have the burden of proving a different date if one is claimed.

c) The Planning Commission shall review the rebuild or replacement project in concept prior to plan check submittal.

M. Demolition of Non-historic Structure. No structure shall be demolished, in whole or in part, without obtaining a demolition permit.

1. If a structure that is not eligible as a historic resource, or a contributing building in a potential or designated district is demolished without a demolition permit, the planning commission shall hold a show cause hearing to determine whether:
  - a) The violator shall within one year completely rebuild the demolished structure to pre-existing condition; or
  - b) If the violator proposes to construct a replacement project other than rebuild the demolished structure to its pre-existing condition, no building or construction related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of 12 months; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. This penalty applies solely to illegal demolition of primary structures on a site and does not apply to accessory structures; and
  - c) The planning commission shall review the rebuild or replacement project in concept prior to plan check submittal.

N. Appeal. Any interested party may appeal a decision of the planning commission pursuant to Section 54.04.115 K, L or M to the city council by filing a written request for appeal with the city clerk within 10 days from the date of the planning commission's decision.

O.2- The director of ~~development services~~ planning and community preservation shall cause notice that this section is applicable to property to be served by mail on the person shown as the owner on the rolls of the tax assessor, and on any other person known to have an interest in the property, as soon as practicable after having knowledge that the provisions of this section are applicable to property. The date the city first had actual knowledge of the demolition shall be stated in the notice. The provisions of this subsection are directory only.

P3- The decision of the director of planning and community preservation that this section is applicable may be appealed by the property owner to the planning commission ~~city council~~. The planning commission ~~city council~~ may grant relief from the requirements of this section if the demolition in violation of this section was not done to any of the following:

- 1.a) A building or structure deemed eligible for landmark status;
- 2.b) A building or structure listed or deemed eligible for listing in the National Register of Historic Places;
- 3.c) A building or structure listed or deemed eligible for listing in the California Register of Historical Resources;
- 4.d) Any cultural resource determined to have historic significance.

# EXHIBIT D

Chapter 15.52.060

Calculation of Fee

(Redline Ordinance January 19, 2017)

15.52.060 - Calculation of fee.

- A. The fee imposed upon a project shall be calculated by subtracting any pre-existing impact credits for that project (calculated pursuant to subsection C of this section) from the sum of the base amounts (calculated pursuant to subsection B of this section) for all uses constituting that project. If the pre-existing impact credits for a project exceed the base amounts for that project, then the fee shall be zero.
- B. A base amount shall be calculated for each residential use and each nonresidential use class on a project. With respect to any residential use, the base amount for a project shall be calculated by multiplying the number of dwelling units (after the completion of the project) on the parcels comprising the project by the then applicable residential rate. With respect to any nonresidential use class, the base amount shall be calculated by multiplying the number of square feet of each such use class (after the completion of the project) on the parcels comprising the project by the then applicable rate for such nonresidential use class.
- C. The existing impact credit for project shall be the sum of the base amounts that would be imposed on a project comprised of the structures that existed on the parcels comprising the project prior to the occurrence of the new project. No existing impact credit shall be allowed for structures demolished without required permits.
- D. The rate of the fee shall be established from time to time by resolution or ordinance of the city council in the manner required by Government Code Sections 66004 and 66018 and other applicable law.
- E. Beginning July 1, 2007, and on each July 1st thereafter, the rate of the fee shall increase without further action by the city according to the following formula:

Council-Approved Rate	*	Most Recent ENR
		ENR at Council-Approval

Where the "Council-Approved Rate" is the rate most recently established by resolution or ordinance of the city council, "Most Recent ENR" is the most recently published Construction Cost Index when the calculation is made and "ENR at Council-Approval" is the Construction Cost Index published for the month in which the council approved the "Council-Approved Rate." The city manager or his/her designee shall calculate the increased fee annually and give notice of that calculation in the manner required by law for the publication of ordinance of the city council.

(Ord. 1251 § 3 (part), 2006)



# EXHIBIT E

City Council Ordinance 1386  
(January 19, 2017)

## **DRAFT ORDINANCE 1386**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE, CALIFORNIA ADOPTING MUNICIPAL CODE TEXT AMENDMENT 16-05 (MCTA 16-05) AMENDING SECTION 17.60.056 ("DISCRETIONARY DEMOLITION PERMIT") OF CHAPTER 17.60 ("VARIANCES AND CONDITIONAL USE PERMITS") AND SECTIONS 15.04.115-SECTION 105.7 ("DEMOLITION PERMITS"), AND SECTION 15.52.060 ("CALCULATION OF FEES") OF CHAPTER 15.04 ("BUILDING CODE AND PERMITS") OF THE SIERRA MADRE MUNICIPAL CODE.**

**THE CITY COUNCIL OF THE CITY OF SIERRA MADRE DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 17.060.056 ("Discretionary Demolition Permit Requirements") of Title 17 ("Zoning"), Chapter 17.60 ("Variances and Conditional Use Permits") is hereby amended in its entirety to read as follows:

### **17.60.056 - Discretionary Demolition Permit.**

- A. Purpose. The purpose of the discretionary demolition permit procedure is to insure that potential historic resources are properly evaluated before they are altered or demolished.
- B. For purposes of this section, "demolition is defined as the destruction and removal, in part or in whole, of the foundation, exterior walls, roof structure, exterior framing, exterior siding and/or finish cladding material, porches, chimney and architectural details.
- C. No structure which was constructed seventy-five years or more prior to the date of the application for review shall be demolished without a discretionary demolition permit.
- D. Procedure: Any application for a discretionary demolition permit shall be accompanied by (i) a written historic assessment or survey ~~completed~~ prepared by a qualified architectural historian selected from the list of qualified consultants on file with the Planning and Community Preservation Department which concludes that the property proposed to be demolished is not classified under the California Historic Resource Codes 1 to 5 - eligible for local listing or designation, or a contributor to an existing or potential district and (ii) an application for replacement development project consistent with the standards and requirements of the applicable zoning district, and (iii) an affidavit of posting of a sign at least three feet by four feet in size, located in a conspicuous place on the property abutting a public

street or alley, identifying the property as the subject of an application for a demolition permit. Both the discretionary demolition permit and the application for the replacement development project shall be reviewed concurrently and no discretionary demolition permit shall be approved unless and until the replacement development project is approved. The reviewing body for a demolition permit shall be the same body or individual that would review and approve the accompanying replacement development project.

- E. A discretionary demolition permit may be approved if the reviewing body makes one of the following determinations:
  - 1. The structure proposed to be demolished is neither designated on the local list of historic resources nor eligible for designation as an individual resource or contributor to a district or potential district, and the replacement development project is approved; or
  - 2. The city engineer or building official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.
- F. Exceptions. The following applications do not require a discretionary demolition permit:
  - 1. Demolition of any interior walls of any structure for the purpose of remodel, repair or maintenance, subject to any required permits;
  - 2. Removal and replacement, subject to any required permits, of exterior windows, doors, roof covering, foundation, exterior siding, finish cladding material, porches, chimney, architectural details and other structural or decorative elements deemed by the director to be minor alterations, where the materials used for maintenance and replacement do not alter the appearance, size or character of the existing structure;
  - 3. Any proposed demolition of a structure constructed less than seventy-five years from the date of the applications, which is subject to the provisions of [Section 15.04.115](#);
  - 4. Any proposed demolition of a historic landmark which is subject to the provisions of [Section 17.82.090](#);
  - 5. The director may rely on definitions and permitting processes in the municipal code to consider circumstances which do not meet the exact criteria defined in exceptions 1—5 above, to determine that a specific case meets the intent of one or more of the exceptions.
  - 6. The director may refer any applications that do not require a discretionary demolition permit to the planning commission if the director determines at the director's sole discretion that the proposed development has the potential to result in significant impacts to the structure. In the event the director refers an application to the planning commission, the planning commission shall follow the requirements for a discretionary demolition permit as set forth in this Chapter.

- G. An applicant who does not qualify for a discretionary demolition permit under subsection E or H of this section may seek a certificate of economic hardship pursuant to [Section 17.82.100](#).
- H. Burden of Proof on Applicant. Before any demolition permit is granted, the application shall show, to the reasonable satisfaction of the body considering such matter, the existence of the following facts:
  - 1. That the structure proposed for demolition:
    - a. Has no local, state or national historic significance as determined by the historic resources survey pursuant to subsection D.1 above; or
    - b. Is deemed to be eligible for local listing or designation under the California Historic Resource Codes 1 to 5, or a contributor to an existing or potential district, and all environmental review has been conducted, and/or a historical resources evaluation report with identified mitigation measures has been prepared that will allow the project to proceed, including, but not limited to construction of a replacement structure in substantially similar architectural style and façade, maintenance of a plaque, photographs and/or publication describing the original structure and its local, state or national historic value, or other mitigation measures described in the environmental review document; or
    - c. The city engineer or building official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.
  - 2. That the proposed demolition activities will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties;
  - 3. That there is a demonstrated need for the demolition activity requested;
  - 4. That the result of the demolition activity is consistent with the objectives of the general plan; and
  - 5. That the public interest, convenience, and necessity require that the demolition activity be undertaken at the location requested.
- I. Appeal.
  - 1. Any person may appeal a decision of the planning director to the planning commission pursuant to [Section 17.60.115](#).
  - 2. Any person may appeal a decision of the planning commission to the city council pursuant to Sections [17.60.120](#) and [17.60.130](#).

**SECTION 2.** Section 15.04.115-Section 105.7 (“Demolition Permits”), of Title 15 (“Building and Construction”), Chapter 15.04 (“Building Code and Permits”) is hereby amended in its entirety to read as follows:

**15.04.115 - Section 105.7 Demolition Permits.**

The following is added to Section 105 of the 2016 California Building Code:

## **Section 105.7 Demolition Permits**

- A. Except for a demolition permit issued pursuant to Section 17.60.056 or certificate of appropriateness issued pursuant to Section 17.82.090, no permit for the demolition of all or any substantial portion of any building in the city shall be issued for a period of thirty days after such application is made. For the purposes of this chapter, demolition shall be considered the alteration, reconstruction, or elimination of 50% or more, of the floor area or monetary value. Projects that involve less than 50% of the alteration, reconstruction, or elimination of the floor area or monetary value may still be subject to requirements of Chapter 8.13 and/or 12.20 of this code.
- B. There is a 30 day wait period after the application is submitted.
- C. Within 10 days of the application, the applicant should submit a mitigation plan for vermin, noise, dust, asbestos, salvage, trash removal, air pollution, historic preservation, and neighborhood peace and enjoyment. Failure to submit such mitigation report may be grounds for denying such permit.
- D. Notice of the application for a demolition permit shall be made available within three days to every city councilmember and city official. Copies of the applicant's mitigation report shall also be made in similar fashion.
- E. Prior to the release of the demolition permit, the applicant shall demonstrate that notification of, and compliance with, the following:
  - 1. South Coast Air Quality Management District (AQMD);
  - 2. Electricity provider;
  - 3. Natural gas provider; and
  - 4. City Department of Public Works (Chapters 8.13 and 12.20.)
- F. Prior to the issuance of a demolition permit, the applicant shall file a site plan and application for review and approval of his/her intended reuse of the property with planning and community preservation department. Such plan shall indicate the intended use and condition of the property after the demolition of structures requested within the demolition permit is concluded ("replacement project.") No demolition permit shall issue until the applicant has obtained approval of the replacement project from the applicable reviewing body except when the City Engineer or Building Official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.
- G. Notwithstanding any other provision of this chapter, in the event of an immediate threat to the public health, safety and welfare, the thirty-day "wait" period for the issuance of a demolition permit may be waived. Evidence of such an immediate threat shall be submitted by the applicant to the director of planning and community preservation. Upon receipt of such information, the

director of planning and community preservation shall determine if an immediate threat to the public health, safety and welfare exists.

- H. The filing of any notice or report, as called for herein, is not intended to vest any discretion (under CEQA or otherwise) in the building official to deny such application. Instead, at the end of the thirty-day period, such permit shall be issued unless such issuance is contrary to any law or regulation applicable at that date.
- I. To the extent, if any, that this Section 115 differs from the 2013 California Building Code (CBC), the city council finds that there are conditions unique to this city that justify such change, including high fire danger, steep hillsides, vermin infestation, wildlife and asbestos levels, the issuance of a demolition permit shall be considered a ministerial duty under the provisions of CEQA Section 15268 except for historical and unique archeological resources as outlined in CEQA Section 15064.5.
- J. Penalty for demolition without permit. The City intends to secure compliance with regulations restricting demolition of structures without a demolition permit or certificate of appropriateness, by any of the following alternate, separate and distinct methods. Each method set forth herein is not intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance nor does it prevent utilization of any other enforcement mechanisms and/or penalties available by law. Each day a violation exists constitutes a separate offense.
  - 1. Any person, firm or corporation demolishing a structure without a permit shall be guilty of a misdemeanor, and upon conviction of any such person shall be punishable by a fine of not more than one thousand dollars or by imprisonment in the city jail for not more than one hundred eighty days, or by both such fine and imprisonment.
  - 2. In accordance with Section 15.52.060 C, structures demolished without permits shall not be awarded impact credits toward fees charged for future development.
  - 3. Administrative Citation. Upon a finding that a violation of this code exists, the enforcement officer vested with the authority to enforce the various provisions of this code may issue an administrative citation under the provisions of Chapter 1.18.
  - 4. Restriction on development of property, pursuant to Sections 15.04.115 K, L, or M.
- K. Demolition of Historic Structure. A structure designated as a historic resource shall not be demolished without a certificate of appropriateness issued pursuant to the provisions of Section 17.82.090 or a certificate of economic hardship pursuant to Section 17.82.100.
  - 1. If a structure that is designated as a historic resource is wholly or partially demolished without a permit, the owner/violator shall appear before the

planning commission at a show cause hearing to determine whether the unlawful demolition may be mitigated by reconstruction and restoration of the original historic resource or other mitigation measures or whether the project site shall remain undeveloped for a period of years, as set forth in subsection 2.b. below. To facilitate its decision, the commission may require the owner/violator to undertake one of more of the following and submit the results for commission determination:

- a) Prepare a historical resource evaluation report with identified mitigation measures prepared by a qualified architectural historian selected from the list of qualified consultants on file with the planning and community preservation department at the owner's expense;
  - b) Conduct environmental review;
  - c) Apply for a certificate of appropriateness pursuant to Section 17.82.090.
2. As a result of the show cause hearing, the planning commission may require the owner/violator to do one of the following:
- a) The violator shall within one year completely rebuild the demolished structure to its pre-existing historic character as described in the historical resources evaluation report; or
  - b) If the violator proposes to construct a replacement project rather than rebuild the demolished designated historical structure to its pre-existing historic character, no building or construction-related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of five years; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. For the purposes of this section, the demolition shall be presumed to have occurred on the date the city has actual knowledge of the demolition. The owner shall have the burden of proving a different date if one is claimed.

L. Demolition of Eligible Historic Structure. A structure that is deemed to be eligible as a historic resource under the California Historic Resource Codes 1 to 5, or a contributor to an existing or potential district, shall not be demolished without prior environmental review and/or a historical resource evaluation report with identified mitigation measures that will allow the project to proceed with a certificate of appropriateness pursuant to the provision of section 17.82.090 and applicable demolition permit.

1. If an eligible historic structure is demolished without a demolition permit or certificate of appropriateness the owner shall be required to prepare a historical resource evaluation report with identified mitigation measures prepared by a qualified architectural historian selected from the list of qualified consultants on file with the Planning and Community Preservation Department at the owner's expense, and shall appear before the planning commission for a show cause hearing pursuant to Section 15.04.115K(1)(a-c):

- a) If the historical resource evaluation report determines that a partially demolished structure, if reconstructed with similar materials and as otherwise mitigated consistent with the evaluation report will result in a structure which is eligible for designation on a local, state or Federal Registry of Historic Resources, the violator shall within one year completely rebuild the demolished structure to its pre-existing condition and architectural character.
  - b) If the violator proposes to construct a replacement project other than rebuild the demolished structure to its pre-existing condition, no building or construction related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of three years, if the structure was deemed eligible for listing on the local, state, or Federal Registry of Historic Resources; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. For the purposes of this section, the demolition shall be presumed to have occurred on the date the city has actual knowledge of the demolition. The owner shall have the burden of proving a different date if one is claimed.
  - c) The Planning Commission shall review the rebuild or replacement project in concept prior to plan check submittal.
- M. Demolition of Non-historic Structure. No structure shall be demolished, in whole or in part, without obtaining a demolition permit.
  - 1. If a structure that is not eligible as a historic resource, or a contributing building in a potential or designated district is demolished without a demolition permit, the planning commission shall hold a show cause hearing to determine whether:
    - a) The violator shall within one year completely rebuild the demolished structure to pre-existing condition; or
    - b) If the violator proposes to construct a replacement project other than rebuild the demolished structure to its pre-existing condition, no building or construction related permits shall be issued, and no permits or use of the property shall be allowed, from the date of demolition for a period of 12 months; however, the owner shall immediately clean up and secure the site so that it is free from all construction debris and attractive nuisance. This penalty applies solely to illegal demolition of primary structures on a site and does not apply to accessory structures; and
    - c) The planning commission shall review the rebuild or replacement project in concept prior to plan check submittal.
- N. Appeal. Any interested party may appeal a decision of the planning commission pursuant to Section 54.04.115 K, L or M to the city council by filing a written request for appeal with the city clerk within 10 days from the date of the planning commission's decision.



- O. The director of planning and community preservation shall cause notice that this section is applicable to property to be served by mail on the person shown as the owner on the rolls of the tax assessor, and on any other person known to have an interest in the property, as soon as practicable after having knowledge that the provisions of this section are applicable to property. The date the city first had actual knowledge of the demolition shall be stated in the notice. The provisions of this subsection are directory only.
- P. The decision of the director of planning and community preservation that this section is applicable may be appealed by the property owner to the planning commission. The planning commission may grant relief from the requirements of this section if the demolition in violation of this section was not done to any of the following:
  - 1. A building or structure deemed eligible for landmark status;
  - 2. A building or structure listed or deemed eligible for listing in the National Register of Historic Places;
  - 3. A building or structure listed or deemed eligible for listing in the California Register of Historical Resources;
  - 4. Any cultural resource determined to have historic significance.

**SECTION 3.** Section 15.52.060 (“Calculation of Fees”) in Chapter 15.52 (“Public Facilities Fees”) is hereby amended to read as follows:

**15.52.060 - Calculation of fee.**

- A. The fee imposed upon a project shall be calculated by subtracting any pre-existing impact credits for that project (calculated pursuant to subsection C of this section) from the sum of the base amounts (calculated pursuant to subsection B of this section) for all uses constituting that project. If the pre-existing impact credits for a project exceed the base amounts for that project, then the fee shall be zero.
- B. A base amount shall be calculated for each residential use and each nonresidential use class on a project. With respect to any residential use, the base amount for a project shall be calculated by multiplying the number of dwelling units (after the completion of the project) on the parcels comprising the project by the then applicable residential rate. With respect to any nonresidential use class, the base amount shall be calculated by multiplying the number of square feet of each such use class (after the completion of the project) on the parcels comprising the project by the then applicable rate for such nonresidential use class.
- C. The existing impact credit for project shall be the sum of the base amounts that would be imposed on a project comprised of the structures that existed on the parcels comprising the project prior to the occurrence of the new project. No

existing impact credit shall be allowed for structures demolished without required permits.

- D. The rate of the fee shall be established from time to time by resolution or ordinance of the city council in the manner required by Government Code Sections 66004 and 66018 and other applicable law.
- E. Beginning July 1, 2007, and on each July 1st thereafter, the rate of the fee shall increase without further action by the city according to the following formula:

Council-Approved Rate	*	Most Recent ENR
		ENR at Council-Approval

Where the "Council-Approved Rate" is the rate most recently established by resolution or ordinance of the city council, "Most Recent ENR" is the most recently published Construction Cost Index when the calculation is made and "ENR at Council-Approval" is the Construction Cost Index published for the month in which the council approved the "Council-Approved Rate." The city manager or his/her designee shall calculate the increased fee annually and give notice of that calculation in the manner required by law for the publication of ordinance of the city council.

**SECTION 4. Consistency with the General Plan.** The purpose of the amendments are consistent with the General Plan. The proposed amendments are required out of public necessity, convenience and general welfare (SMMC 17.64.010) as they would further the goals of preserving the small town character of the community, and promoting neighborhood consistency. The proposed amendments are generally consistent with the goals, policies, and objectives of the General Plan in that the amendments would encourage the preservation of potential historic resources and significant architectural and historical landmarks and districts by imposing more stringent penalties for illegal demolition.

**SECTION 5. CEQA Finding.** The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment, because it will impose greater limitation on development in the City and protect the aesthetic character of Sierra Madre and potential loss of potential historic resources 75 years of age or older, thereby serving to reduce potential significant adverse environmental impacts. The adoption of this ordinance is, therefore exempt from California Environmental Quality Act (CEQA) review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

**SECTION 6. Effective Date.** This Ordinance is adopted by the City Council and shall take effect 30 days after approval by the City Council. This Ordinance and the City Clerk's certification, together with proof of publication, shall be entered in the Book of Ordinances of the City Council.

**SECTION 7. Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Sierra Madre at the regular meeting of this \_\_\_\_ day of \_\_\_\_\_, 2017 by the Following Vote:

AYES:  
 NOES:  
 ABSTAIN:  
 ABSENT:

Gene Goss, Mayor

ATTEST:

Melinda Carrillo, City Clerk

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF SIERRA MADRE )

I, \_\_\_\_\_, City Clerk of the City of Sierra Madre, hereby certify that the foregoing Ordinance 1386 was introduced for first reading on February 14, 2017 and approved and adopted by said Council at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.