

## **EXHIBIT A1: CITY OF OAKLAND FINDINGS FOR ADU ORDINANCE**

### 1. ADUs in the Very High Fire Hazard Severity Zone

Housing density in the Oakland hills presents unique public safety challenges in the event of an emergency evacuation or ambulance/fire response. The City's Zonehaven Model, which models an emergency evacuation scenario similar in scale to the Oakland firestorm of 1991, shows that current housing density in the VHFHSZ is already at unmanageable levels for emergency response, without additional density. If each single-family parcel is ministerially permitted to have two ADUs and one JADU per parcel (three ADUs total), then emergency response will further exacerbate an already unsustainable evacuation scenario.

The City has consulted with numerous experts that have warned City decision-makers against increasing housing density in the Oakland hills. In the [2021-2026 Hazard Mitigation Plan](#), Tetra Tech identified the "dense population" in the Oakland hills, compounded by narrow urban streets and parked cars, as a significant impact on evacuation. Oakland's Local Hazard Mitigation Plan (LHMP), as well as its recently adopted Safety Element, both identify managing housing density in the Oakland hills as an important strategy for addressing increased wildfire risk and maintaining the ability of the City to provide adequate emergency response and evacuation routes for those areas.

In addition, on November 19, 2019, the City Council adopted Resolution No. 87940 C.M.S., declaring Wildfire Prevention a top priority for the City and requested the City Administrator to present a comprehensive report to the Council's Public Safety Committee (PSC) that addresses Oakland's Wildfire Prevention Strategies. The Wildfire Prevention Planning Report concluded that housing density would need to be limited in the S-9 Overlay Zone and a comprehensive evacuation plan would need to be developed for those already living in these areas due to lack of road infrastructure and access to escape routes in the event of a fire. In preparation of Oakland's Vegetation Management Plan, consultants advised the City that the current condition of "high housing density" and "congested roads during emergencies" presented significant challenges to the City in reducing wildfire risk to public safety.

Permitting up to three ADUs per lot in the VHFHSZ would create significant impacts on traffic flow and public safety pertaining to emergency response and evacuation. By limiting ADU development to one ADU or JADU per lot in the VHFHSZ, the City heeds the recommendations and directions of local and regional planning experts to adhere to the mitigation measures to which we have committed. In addition, State law permits local agencies to make life safety findings under Government Code section 65852.23 to limit ADUs.

For additional details and evidence, please review City Response number one as well as accompanying attachments including supporting data and evidence, as set forth in the Ordinance **Exhibit A2: City Response to State HCD Comment Letter**.

## 2. Requiring Parking for JADUs in the Very High Fire Hazard Severity Zone

Managing street parking is an important piece of the fire safety efforts in VHFHSZ, but enforcement continues to be a challenge even where no-parking rules are in place. ADUs often do not require off-street parking, leaving people who reside in these units to park their cars illegally on the sides of already narrow, legally nonconforming roads in the S-9 Overlay Zone, where street parking is just not feasible due to substandard road widths. Increasing housing density and the number of vehicles, which is very likely given the S-9 Overlay Zone is not well-served by public transit, exacerbates the current condition of “high housing density” and “congested roads during emergencies” that presents significant challenges to the City in reducing wildfire risk to public safety. In addition, there have been instances when cars have parked illegally on narrow roads and have prevented emergency vehicles to respond to an emergency at a residence. Illegally parked vehicles have interfered with fire response by increasing response time and/or requiring changes in operational procedures therefore increasing the risk to residents and responders and increasing the threat to property. State law permits local agencies to make life safety findings under Government Code section 65852.23 to require parking for ADUs. For additional details and evidence, please review City Response number five as well as accompanying attachments of evidence in the Ordinance **Exhibit A2: City Response to State HCD Comment Letter**.

## 3. Amnesty Clause and the S-9 Overlay Zone

For all of the reasons already discussed above, the City has grave concerns about the life safety of occupants in the S-9 Overlay Zone, in terms of: (1) the ability to evacuate from the area in an emergency and access for Emergency services to reach residents suffering an emergency, (2) provision and maintenance of defensible space and building separations, and (3) building standards related to fire and life safety. State law permits local agencies to make life safety findings under Government Code section 65852.23 that would make an ADU ineligible for the Amnesty Program. For additional details and evidence, please review City Response number eleven as well as accompanying attachments of evidence in the Ordinance **Exhibit A2: City Response to State HCD Comment Letter**.

## 4. Definition of Non-habitable Space

State law defines non-habitable space as “...including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.” These are unfinished areas that are not meant to be occupied by people and used communally. This definition is in line with the ADU Ordinance’s definition of non-habitable space in multifamily primary dwellings, which states “non-habitable or non-livable space does not include detached accessory structures, existing residential units, commercial space, community rooms, gyms, laundry rooms or any other finished spaces that are meant to be occupied by people and used communally.”

In Oakland, tenant protection is a high priority and is also another means of addressing the extreme housing crisis and lack of housing affordability. The City has an interest in ensuring that property owners do not attempt to manipulate State law to evict tenants by removing important tenant amenities, such as laundry rooms, gyms, and other finished room amenities. Since none of these finished-room spaces are mentioned in the “class” of examples provided, City staff believe that the intent of State law was to permit ADU development in the unfinished spaces of multi-family building, in line with our definition of non-habitable space. Otherwise, State law would have stated that ADU conversions are permitted “anywhere in the multifamily building that is not already livable or habitable space.” Since the State law is not that broad, the legislature appears to have intended to limit it to a class of unfinished spaces.

5. State HCD Relied on Incorrect Alameda County Transit Information in Justifying Why the City’s ADU Regulations in the S-9 Overlay Zone Are Impermissible.

The State HCD Comment references Map 18 at the end of Appendix A and claims it shows several large sections of the S-9 Overlay Zone south of Piedmont that are “well served with bus stops for the 646, 652 and 682 bus lines within a half-mile walk.” Bus numbers 646 (Montera-Skyline), 652 (Montera-MacArthur) and 682 (Bishop O’Dowd High line) are school bus lines that run only during school times and are deployed for the purpose of serving as school transportation lines. None of these bus lines is currently active and there are no planned upcoming schedules for these bus lines<sup>1</sup>. As a result, residents in this and other areas in the S-9 Overlay Zone must rely on vehicular transportation to and from their primary residences and ADUs. This specific issue underscores the need for cities to play an active role in local hazard planning as cities face the effects of climate change.

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<sup>1</sup> The status of service for each line is listed on AC Transit’s website as follows:

Line 646: <https://www.actransit.org/bus-lines-schedules/646>

Line 652: <https://www.actransit.org/bus-lines-schedules/652>

Line 682: <https://www.actransit.org/bus-lines-schedules/682>.