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6 VOTES REQUIRED FOR PASSAGE

APPROVED AS TO FORM AND LEGALITY

DRAFT

INTRODUCED BY COUNCILMEMBER JANE BRUNNER

City Attorney

OAKLAND CITY COUNCIL
ORDINANCE NO. _____ C.M.S.

AN EMERGENCY ORDINANCE, PURSUANT TO CHARTER SECTION 213, ESTABLISHING INTERIM CONTROLS REQUIRING A MAJOR CONDITIONAL USE PERMIT FOR DEMOLITIONS IN THE CITY OF OAKLAND, WHERE THE OWNER INTENDS TO CREATE A VACANT LOT, TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION.

WHEREAS, the Oakland Municipal Code and the Oakland Planning Code (“OPC”) regulate the demolition of structures in the City of Oakland; and

WHEREAS, among other activities, the City permits outright, without any discretionary planning review, building demolitions where the owner intends to create a vacant lot; and

WHEREAS, vacant lots, where no development is planned, represent a blight along major commercial corridors and in other locations; and

WHEREAS, the City encourages development on the major transportation corridors through updated zoning regulations; and

WHEREAS, interrupting the built environment along corridors with vacant lots can detract from the success of these corridors; and

WHEREAS, demolition where the owner intends to create a vacant lot does not require discretionary approval at this time; and

WHEREAS, the Land Use and Transportation Element of the Oakland General Plan places priority on the successful and attractive development of the transportation corridors; and

WHEREAS, requiring a major conditional use permit from the City for demolition of a building where the owner intends to create a vacant lot, provides the City a tool to enhance the appearance of these corridors and better promote the public's health, safety and welfare, while permanent controls are being developed; and

WHEREAS, there is insufficient time to develop permanent controls regulating this activity and present them to the City Planning Commission and City Council for review, recommendation, and adoption; and

WHEREAS, the provisions of the California Environmental Quality Act (CEQA) have been satisfied and the proposal relies on the following environmental document to satisfy any requirements under the California Environmental Quality Act (CEQA): the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998 (General Plan EIR); and

WHEREAS, as a separate and independent basis, the proposal is also exempt from CEQA under several CEQA Guidelines: section 15061(b)(3), known as the "General Rule," that states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment; and

WHEREAS, for the reasons set forth above, pursuant to City Charter section 213, the Council declares that this ordinance is necessary to preserve the public peace, health, welfare or safety and to avoid a direct threat to the health, safety, and welfare of the community, and the "Whereas" clauses above taken together constitute the City Council's statement of the reasons constituting such necessity and emergency; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

- Section 1. The recitals above are true and correct and are an integral part of this Ordinance.
- Section 2. This Ordinance complies with the California Environmental Quality Act.
- Section 3. That building demolitions where the owner intends to create a vacant lot shall only be permitted upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 of the Planning Code.
- Section 4. No building, zoning or other permit that has been issued for any building or structure for which rights to proceed with said building or structure have not vested pursuant to the provisions of State law shall proceed without complying with this ordinance. Further, no building, zoning or other permit for any building or structure shall be issued by any department, agency, employee or agent of the City of Oakland to allow for any building or structure, without complying with the requirements of Sections 3 above. No use which has not vested prior to the date of this Ordinance shall commence in violation of the provisions of this Ordinance.
- Section 5. The controls imposed by this ordinance shall remain in place and be effective for a continuous one year from the effective date of this ordinance, or until the City Council adopts

permanent controls for demolitions where the owner intends to create a vacant lot, whichever comes first.

Section 6. The Community and Economic Development Agency is directed, over the next one year, to conduct a study and develop a draft set of permanent amendments to the Planning Code and/or Municipal Code regarding the subject matter of this ordinance.

Section 7. For the term of this ordinance, as set for the in Section 5 above, the provisions of this ordinance shall govern, and to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

Section 8. This ordinance shall be effective immediately upon its adoption by the City Council, subject to the provisions of Section 213 of the Charter of the City of Oakland.

Section 9. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 and 213 of the Charter of the City of Oakland, and Article XI of the California Constitution.

Section 10. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California