

An Evaluation of City Charter Article 26 “Measure A”

Executive Summary:

In August of 2019, the City Council’s Charter Review subcommittee asked the City staff and the City of Alameda Planning Board to provide the subcommittee with an evaluation of the land use regulations contained in Article 26 subsections 1, 2 and 3 of the Alameda City Charter, commonly referred to as “Measure A”.

One of the Alameda Planning Board’s primary duties is to advise the City Council on the effectiveness of existing or proposed land use regulations. When recommending a new land use policy or regulation or a change to an existing policy or regulation to the City Council, the staff and the Planning Board always consider three factors as required by the Alameda Municipal Code (AMC):

- Does the regulation support the general welfare of the community,
- Does the regulation support the community’s goals and objectives as articulated by the General Plan, and
- Is the regulation equitable?

The following staff evaluation finds that Article 26 of the Alameda City Charter does not support the general welfare of the community, does not support the community’s General Plan goals and objectives, and is not equitable.

A Brief History of Article 26 “Measure A”

On March 13, 1973, Alameda residents voted for an initiative titled “Measure A” to amend the City Charter to read:

Article XXVI. Multiple Dwelling Units.

“Sec. 26-1. There shall be no multiple dwelling units built in the City of Alameda.

“Sec. 26-2. Exception being the Alameda Housing Authority replacement of existing low cost housing and the proposed Senior Citizens low cost housing complex, pursuant to Article XXV Charter of the City of Alameda.”

With 9,205 Alameda residents voting in favor of the measure, the measure passed based in part on the following ballot arguments:

“Large slices of private property will be confiscated, in a futile effort to handle the traffic flow caused by overbuilding in Alameda, which has already reached an alarming level, without the impact of hundreds of multiple dwelling units, proposed and/or authorized, but not completed.

“Construction of townhomes, condominiums, and apartment complexes if allowed to continue, Alameda will be facing a massive TAX INCREASE to pay for public services, the Southern Crossing, offshore freeway, more tube crossings and three new bridges.

“Massive development on the South Shore has not lowered taxes, and land speculation concerning future property taxes cannot be held valid because of new State and Federal property tax relief laws.

“The quiet residential quality of Alameda is rapidly disappearing. Measure “A”, initiated by the people, will preserve and protect the very things that make this city a desirable place in which to live.

“Measure “A” will give the people a voice in the future of Alameda, you the VOTER can determine progressively the environmental character of YOUR city.”

Shortly after the passage of Measure A, the City Council amended the AMC to prohibit the construction of multifamily housing (AMC Section 30-53 Multiple Dwelling Units Prohibited). AMC Section 30-51 defines multifamily housing as a residential building with three or more units.

On March 5, 1991, 8,987 Alameda residents voted for a second initiative called “Measure A”, which added Section 26-3 to the Charter.

Section 26-3: “The maximum density for any residential development within the City of Alameda shall be one housing unit per 2,000 square feet of land.”

The ballot argument in favor of the measure to add Section 26-3 read as follows:

“Weask the voters of Alameda to add this measure for additional protection for the goals of 1973 Measure A to prevent overcrowding, minimize traffic congestion and parking problems and preserve the character of residential neighborhoods. Inasmuch as our City is almost built out, we are proposing to require that any dwelling unit have a minimum of 2,000 square feet of area and a duplex have a minimum of 4,000 square feet of area, which should have been done in 1973. This reinforces the original intent of Measure A. Most importantly, it also means that no three members of the Council can ever change the residential density set forth in this Ballot Measure. With the passage of this measure, only you, the voters, can do this.”

Shortly after passage of the initiative, the City Council adopted amendments to the AMC that limit residential density for new residential development throughout Alameda to one unit per 2,000 square feet (21.78 units per acre).

The adoption of Measure A in the early 1970’s was just one of many changes in City and State regulations during the 1970s and 1980s related to development review, including, but not limited to:

- Historic Preservation. The Alameda Historic Preservation Ordinance established new processes and requirements for the public review of changes to historic buildings in Alameda;
- Design Review. The Alameda Design Review Ordinance established new processes and requirements for the public review of any design changes to an existing building in Alameda or the proposed design of a new building in Alameda;
- CEQA. The California Environmental Quality Act established new processes and requirements for the public review of the potential environmental impacts, including traffic, from any new development; and
- BCDC. The San Francisco Bay Conservation and Development Commission (BCDC) established new public processes and regulations for the filling of the San Francisco Bay.

City Ordinances Adopted to Maintain Consistency with State Law

To the extent that Article 26 includes provisions that are inconsistent with State Law, those provisions are preempted. As the result, the City has been required to adopt three ordinances that override certain provisions of Article 26 for certain types of projects.

Alameda's Density Bonus Law. In 1979, California adopted a Density Bonus Law (Government Code Section 65915-65918), which creates incentives for developers to include affordable housing within their projects by granting increased density and other regulatory incentives. State law requires that the City adopt a local ordinance to allow residential density bonuses above the maximum allowed if a residential development provides specified percentages of deed restricted affordable housing units. State law also prohibits the City from applying any development standards, such as Article 26's prohibition on multifamily buildings, that physically preclude the construction of the project with the density bonus.¹

In 2009, the City Council adopted Alameda's density bonus ordinance, codified in AMC Section 30-17 Affordable Housing Density Bonus. AMC Section 30-17 requires that the City grant density bonuses of up to 35% above the maximum allowable density if the project provides a specified percentage of affordable housing units within the development. Consistent with State law, qualifying projects may also request waivers from AMC development standards and the City Charter prohibition on multifamily housing that physically preclude the construction of the project with the density bonus, which the City does not have the authority to deny under State law. To be eligible for bonuses and waivers under State and local law, the project must be located on a parcel of at least 10,000 square feet in size.²

Alameda's Multi-family Residential Combining Zone. California Government Code Section 65583(c)(1) adopted in 1969 states that the City's General Plan and Zoning must include sites that "facilitate and encourage the development of a variety of types of housing for all income levels, *including multifamily rental housing*, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing."

To comply with these State Housing Law provisions and maintain a legally adequate General Plan, the City Council adopted AMC Section 30-4.23 Multi-family Residential Combining Zone (MF District) in 2012. The MF District permits multifamily housing by right and allows up to 30 units per acre. As a result of the City Council's 2012 decision, the City of Alameda received State certification of its Housing Element for the first time since 1990, thereby eliminating the risk of further legal action (a lawsuit had already been threatened) and making the City eligible for essential affordable housing, transportation, and open space State grants (the City received a \$250,000 State grant for Jean Sweeney Open Space Park within months of the City Council's action). The MF zoning designation currently applies to the Alameda Landing

¹ For example, if the site zoning and size of a particular property accommodates a maximum base density of 100 single family or duplex units and the applicant proposes that 5% of the 100 units will be available to very low-income households, the project will qualify for a 20% density bonus (maximum allowable residential density with a 20% density bonus results in 120 total units). If the property size is not big enough to accommodate 120 single family or duplex units (i.e., the property is not greater than _____ square feet in size), the City must waive its prohibition on multifamily units to allow the applicant to physically fit all 120 units.

² Under State Law, density bonuses only apply to development projects for five or more residential units, including mixed use projects (i.e., the property zoning and lot size must allow for five or more units). In Alameda, under Article 26's 2,000 square foot per unit maximum density standard, a property must be at least 10,000 square feet in size to qualify for a density bonus and a waiver from the multifamily prohibition.

waterfront, Alameda Marina site, Encinal Terminals site, Del Monte Warehouse site, Ron Goode Toyota site, the Shipways site, and the North Housing property.

Alameda's Accessory Dwelling Unit Ordinance. State Law requires that cities allow accessory or secondary units on residential properties even if the additional unit would violate local density standards, such as Article 26's citywide one unit per 2,000 square feet of lot area requirement. As the result of the changes to local and State law, accessory dwelling units are "accessory uses" and not counted as a "housing unit" under local residential density standards. Therefore, Charter and AMC provisions limiting residential densities to one unit per 2,000 square feet do not apply to accessory dwelling units.

Article 26's Continued Impact on Residential Development Opportunities in Alameda

Despite the adoption of the Density Bonus Ordinance, the Multi-family Residential Combining Zone, and Accessory Dwelling Unit Ordinance, Article 26 remains a significant constraint on housing development in Alameda:

- **90%** of the parcels in Alameda zoned for non-single family residential use in the R-2, R-3, R-4, R-5 and R-6 zoning districts are less than 10,000 square feet in size and are therefore ineligible for density bonuses and waivers. Therefore, due to Article 26, less than 10% of multifamily residentially zoned parcels in Alameda are available for development of multifamily buildings with more than three units.
- **75%** of the mixed use zoned parcels on Park Street and Webster Street are less than 10,000 square feet and are therefore ineligible for density bonuses and waivers which would allow construction of 3 or more units over ground floor retail.
- **2%** of the land area in Alameda is zoned with the MF District Overlay to permit multifamily housing by right and a maximum residential density of 30 units per acre.



An example of a 4- unit, 35 unit/acre residential building on Central Avenue that cannot be constructed today in Alameda.

Since 2009, several projects have utilized the Density Bonus ordinance to qualify for density bonuses above 21 units per acre and waivers from the multifamily housing prohibition. The projects include:

- 800 planned multifamily apartments and townhomes currently under construction at the 68 acre Site A in Alameda Point (12 units/acre),
- 101 occupied multifamily units in the 285 unit "TRI Pointe" Alameda Landing project (12.5 units/acre),
- 52 occupied multifamily townhomes on Clement Avenue at Willow (20 units/acre),
- 9 planned multifamily units above retail on Webster Street at Taylor (26 units/acre), and
- 21 occupied multifamily units at Everett and Eagle (29 units/acre).

Since 2012 and the adoption of the Multi-family Residential Combining Zone, several projects with the MF District zoning designation have utilized the Density Bonus Ordinance to achieve residential densities between 29 and 36 units per acre:

- 327 planned multifamily units on the Alameda Landing Waterfront site (29 units/acre).

- 380 planned multifamily units on the Del Monte Warehouse site (33 units/acre)
- 589 planned multifamily units on the Encinal Terminals site (35 units/acre)
- 760 planned units at the Alameda Marina project (36 units/acre)

Article 26's Continued Impact on the Community's Ability to Address 2020 Issues

Despite adoption of the Density Bonus Ordinance and the MF District Overlay Ordinance, Article 26 continues to impede the community's efforts to address local housing, transportation, and environmental problems facing the Alameda community in 2020.

The Affordable Housing Crisis: Article 26 limits the City's ability to address the local and regional affordable housing crisis.

A strong regional economy has led to a growing population seeking housing while construction has not kept pace. That, in turn has led to displacement, a growing homeless population, rising housing costs, more traffic congestion, and rising greenhouse gas emissions. According to Plan Bay Area 2040, the region has added approximately two jobs for every housing unit built since 1990. Between 2010 and 2015, the region has added more than four jobs for each housing unit constructed. The number of jobs in the Bay Area is projected to increase by 6.5% between 2020 and 2030. Without a significant increase in housing production regionally and locally, the current affordable housing crisis is expected to worsen.

Article 26 prohibits the most affordable market rate types of housing. In response to the housing crises, Alameda regulations should support construction of new housing, and those regulations should incentivize the construction of housing at a density that is affordable to lower and middle income households. A review of online housing sites confirms that single family homes and low density residential units are more expensive than higher density multifamily housing in Alameda. As of August 2019, the average sale price for a single family home is \$1.03 million according to Zillow. The average price for a multifamily unit is \$742,000, or about 30% less than a single family detached unit.

Article 26 is also limiting the City's ability to increase the number of deed restricted affordable units. A [2019 report by the Turner Center for Housing Innovation](#) showed that projects with higher densities are able to provide a greater percentage of their units at more affordable levels. In other words, given the costs of construction and land, low density projects cannot afford to include a large percentage of deed restricted affordable units. Higher density projects that provide more units on less land are able to afford to include higher percentages of deed restricted housing units.

Article 26 is limiting the City's ability to build transit oriented housing on transit corridors. Building housing near transit keeps life more affordable for lower-income households. The [Victoria Transportation Institute](#) identifies transit access as a major influence in strengthening a household's economic resilience, and cites research that show car ownership may be related to higher foreclosure rates in certain neighborhoods. Providing higher density housing in transit-rich corridors like Park Street and Webster Street in Alameda can allow more households to avoid this extra expense.

Since 1973, no new mixed use buildings with ground floor commercial and residential upper floors have been constructed on either Park Street or Webster Street, despite General Plan policies supporting this type of development. (One 9 unit project on Webster Street was approved four years ago, but it has not been constructed.) Several mixed use land developers have inquired about developing a mixed use project with ground floor retail and residential on the upper floors at the one-acre CVS site at Santa Clara

**Examples of Multifamily Housing
Prohibited by Measure A**



Clinton Ave. - 41 units per acre



San Antonio Ave. – 68 units per acre



Lafayette Avenue – 41 units per acre



Union Street –109 units per acre

and Oak. Due to Article 26, the site is limited to 21 units. With the maximum available 35% density bonus, the project could include up to 29 units. All of the prospective developers have informed staff that it is financially infeasible to develop the site with only 29 units.

The Climate Change Emergency: Article 26 is limiting the City's ability to address the climate emergency.

The City of Alameda is confronting a climate emergency as global temperatures rise, sea levels rise, and Alameda becomes increasingly vulnerable to more extensive and more frequent flooding and other impacts as the result of global, regional, and local greenhouse gas emissions.

The [2019 Emissions Gap Report](#) by the United Nations Environmental Program states: "In some locations, spatial planning prevents the construction of multifamily residences and locks in suburban forms at high social and environmental costs. A reform of planning rules could bring about multiple benefits in this regard."

Article 26 is an example of local planning that prevents multifamily housing and locks in suburban forms at high social and environmental costs. Article 26's prohibition of multifamily housing and requirements for suburban residential densities encourages and supports the types of housing development that generate the most greenhouse gas emissions. It contributes to the suburban sprawl development patterns which have outsized climate impacts when compared to dense infill development.

As documented in the City of Alameda Climate Action and Resiliency Plan (2019), the higher density housing in transit oriented locations prohibited by Article 26 generates lower vehicle miles traveled and greenhouse gases per unit as compared to lower density housing allowed by Article 26. Further, the greenhouse gas emission resulting from heating and cooling a single family home is greater than that resulting from a unit in a multifamily structure prohibited by Article 26.

Growth Control and Traffic: Article 26 is not an effective growth control measure and does not reduce traffic or automobile congestion.

The Regional Housing Needs Allocation (RHNA), not Article 26, determines how many housing units must allowed to be built in Alameda. To reduce traffic from new residential

development constructed to comply with the RHNA, Alameda's land use regulations should require housing types that produce the least amount of traffic per unit. Single family detached homes and low density duplexes generate more traffic per unit than multifamily, higher density residential projects, on a per unit basis. (Source: Institute of Transportation Engineers.) A [2015 study by the National Center for Sustainable Transportation](#) and UC Davis showed that increasing housing density not only reduced the average auto trip length but also increased the rate of carpooling. To support transit and reduce Vehicle Miles Traveled (VMT), Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) [recommend transit oriented developments](#) with a residential density of 20-75 units per acre and that transit-oriented neighborhoods have a density of 20-50 dwelling units per acre. Article 26 does not limit the number of housing units built in Alameda, it only limits the types of housing units. Since Article 26 prohibits the housing types and densities that generate the least amount of traffic and encourages and supports the housing types and densities that generate the most amount of traffic per unit, Article 26 is arguably making traffic in Alameda worse, not better.

Preserving the Character of Alameda Neighborhoods:

Article 26 does not “*preserve the character of residential neighborhoods*”.

In fact, Article 26 does not allow new residential buildings similar to the many multifamily buildings that are such an important part of the character of Alameda's neighborhoods. Many of these buildings are listed as City of Alameda Architectural and Historical Resources (the “Study List”), including 1438 Lafayette (41 units/acre), 2301 San Antonio (68 units/acre), and 916 Union (109 units/acre).

Article 26 does not protect historic homes nor does it require good architectural design. In fact, Article 26 permits the demolition of historic architectural resources. Alameda Municipal Code Chapter 8, Article 7 Historical Preservation protects historic buildings and architecture in Alameda.

Alameda Municipal Code Chapter 30, Article 2 Structural Design Review Regulations requires review of all new residential structures for quality architectural design.

Examples of Mixed Use, Transit Oriented Development Prohibited by Measure A



Encinal Ave. - 78 units per acre



Park Street – 55 units per acre



Park Street – 57 units per acre



Santa Clara Ave – 38 units per acre

Economic Development: Article 26 does not support the City of Alameda's Economic Development Strategy.

The 2018 City of Alameda Economic Development Strategy identifies two primary land use strategies to support economic development and job growth in Alameda: preserving land for commercial uses and providing housing for employees of new businesses. Every 8 years, the City must zone land for residential purposes to meet its RHNA obligations. By limiting the residential density that can be accommodated on each site, regulations such as Article 26 which mandates lower residential densities have the effect of requiring the City to rezone more commercial land for residential purposes than would be needed if the City could zone for higher densities on the existing residentially zoned parcels.

Equity: Article 26 is not equitable. Article 26 undermines Alameda's efforts to maintain an economically, culturally, and racially diverse community by prohibiting housing types that are most affordable to lower and middle income households

State Assembly Bill 1771 and Senate Bill 828 requires public agencies to "affirmatively further fair housing" and reverse historic patterns of segregation. Restricting housing locally has led to displacement that has mostly affected low-income and non-white social groups. According to the Urban Displacement Project, a joint research venture led by UC Berkeley, [a 30% increase in median rent was associated with a 28% decrease in the number of low-income households](#) of color across Bay Area neighborhoods between 2000 and 2015.

Article 26 does not support inclusiveness and equity in Alameda; it fuels displacement. It discriminates against lower income families and households by prohibiting the housing types they are more likely to be able to afford. Middle and lower income people have found it harder to find housing in Alameda because of Article 26. By prohibiting multifamily housing, Article 26 is ignoring the needs of seniors and residents who wish to age in place, Alameda residents with disabilities that might need, and young families who may not be able to afford a single family detached home or cannot live in a single family detached home.

Integrity of the General Plan: Article 26 does not maintain the integrity of the General Plan.

Article 26's citywide prohibition of multifamily housing undermines the community's ability to maintain a legally adequate General Plan. California Government Code Section 65583(c)(1) states that the city's General Plan and Zoning must "facilitate and encourage the development of a variety of types of housing for all income levels, *including multifamily rental housing*, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing".

Prohibiting multifamily housing and higher density housing undermines the City's ability to implement adopted General Plan policies. Examples of these policies include:

- Expand housing opportunities for households in all income groups. Land Use Element 2.4.e.
- Expand the City's supply of affordable rental and ownership housing for extremely low-, very low-, low-, and moderate-income households. Housing Element Policy HE-2.
- Encourage and support new residential opportunities for senior citizens, including senior housing projects, multifamily housing projects with accessible and small housing units, assisted living projects, and in-law unit projects. Housing Element Policy HE-4.

- Create rental, homeownership, and other housing opportunities for special needs populations such as the elderly, homeless and people at risk of becoming homeless, people with physical and/or developmental disabilities, single-parent households, and young adults. Housing Element Policy HE-3.
- Ensure that the entitlement process, zoning and parking requirements, and impact fees do not unnecessarily burden the development of affordable housing units. Housing Element Policy HE-5.
- Ensure equal housing opportunities by taking appropriate actions, when necessary, to prevent housing discrimination in the local market. Housing Element Policy HE-9.
- Facilitate and encourage live/work developments and residential development above ground floor commercial uses on Park Street, Webster Street, and in former “station” neighborhood commercial areas on existing transit corridors to reduce greenhouse gases and traffic congestion and support economic development policies. Housing Element Policy HE-11.

Conclusions: This analysis finds that Article 26 does not support the general welfare of the community, does not support the community’s stated General Plan goals, and is not equitable.

Questions: Questions about this analysis or requests for additional information may be directed to Andrew Thomas, Planning Building and Transportation Director at athomas@alamedaca.gov or 510-747-6881.

Resources

Garcia, David. "Making It Pencil: The Math Behind Housing Development". Turner Center for Housing Innovation. August 2019. <https://turnercenter.berkeley.edu/making-it-pencil>

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