



# City of Alameda

## Staff Report

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City Council

**Agenda Date:** 5/7/2020

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Recommendation to Consider Providing Direction to City Staff to Draft Charter Amendment Related to Article 26 (Measure A) to Resolve Conflicts between Article 26 and the City of Alameda General Plan and Alameda Municipal Code. (City Council Subcommittee)

To: Honorable Mayor and Members of the City Council

### EXECUTIVE SUMMARY

Alameda City Charter Article 26 ("Measure A") conflicts with provisions within the City of Alameda General Plan and Alameda Municipal Code that were adopted in 2012 and 2014 to bring the City of Alameda General Plan and Municipal Code into compliance with State Law.

This report outlines four options that the Council may consider to resolve the conflicting provisions within the City Charter. The subcommittee is not recommending a particular way forward, only providing options for discussion and consideration while the council decides whether it would like to provide direction to staff for future refinement or not.

### BACKGROUND

#### Summary of the timeline and key events in the Charter Review Subcommittee activities

- December 2018, after the election, Mayor Marilyn Ezzy Ashcraft appointed a subcommittee to look at the City Charter and recommend potential items for the City Council to consider putting on the Ballot.
- In April 2019, the subcommittee returned to the City Council with [a list of proposed issues](https://alameda.legistar.com/LegislationDetail.aspx?ID=3880482&GUID=30CDB30B-83B9-4272-A6B1-) <https://alameda.legistar.com/LegislationDetail.aspx?ID=3880482&GUID=30CDB30B-83B9-4272-A6B1-> to return in time for consideration to place items on the November 2020 ballot. At this meeting, additional items were added.
- In August 2019, the City Council's Charter Review subcommittee asked the City of Alameda Planning, Building, and Transportation Department 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". For the meeting, City staff prepared an evaluation of Article 26 (Exhibit 1) that provides an analysis of Article 26's inconsistency with State Law, its continuing impact on residential development opportunities in Alameda, and its impact on the community's ability to address current citywide -wide issues of concern, such as the housing crisis, the climate change emergency, traffic congestion, neighborhood preservation, and economic development.

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- On January 13, 2020, the Planning Board held a public study session to discuss the conflicts between City Charter Article 26 and the City Council adopted policies and goals in the General Plan, Alameda Municipal Code, Climate Action Plan, Economic Development Strategy, and Transportation Choices Plan.
- Issues related to governance, elections, etc. are being addressed at the May 5, 2020 regular meeting. Recommendations Charter Interference are being brought forward on May 6, 2020 and Article 26 (Measure A) is being addressed tonight.

After hearing from public speakers, the Planning Board members made several important observations in their concluding remarks including: o

- Due to State Law housing requirements, Article 26 of the General Plan is not limiting the number of housing units built in Alameda. The State of California, via the Regional Housing Needs Allocation process, overseen in the Bay Area by the Association of Bay Area Governments determines this.
- Article 26 neither determines the height of future buildings nor protecting existing historical housing stock from removal. These are set in our General plan and zoning code and the State of California's Density Bonus Laws further provide exemption from these.
- The City Council has passed many important ordinances since Measure A was adopted nearly 50 years ago to protect neighborhoods and architectural resources.
- Alameda is a diverse city with different districts and neighborhoods and allowable density should also vary from area to area. Measure A's "one size fits all" standard does not make sense for Alameda. In Alameda some neighborhoods should have low density limits and other areas should allow higher densities based on transportation, infrastructure capacity and other site specific criteria.
- The General Plan and Zoning Ordinance are the documents that can and should establish carefully crafted standards for each neighborhood and district.
- Times have changed since 1972. Measure A served an important purpose in 1972, but new challenges demand new strategies and new regulations to address issues like our serious housing crisis and climate change problems.
- The Measure A ban on multi-family housing is a barrier to affordable housing.
- Residential density may not be the right standard for the future regulation of growth and development. Density can be misleading because of the size of the units. Floor area ratios and form based codes might encourage smaller, more affordable units.
- Article 26 may not have been adopted to establish an equity barrier, but multi-family housing supports increased affordability.
- California is changing drastically and the state is taking over and we need to make a plan for the future. We can model the future we want to have or we can be forced into a position we have to accept.
- A diversity of the housing stock makes Alameda an interesting place to live and loosening the restrictions on multi-family dwellings would help alleviate the pressure.
- Article 26 is a limit on housing types and in limiting the ability to develop smaller, denser, more affordable units in key areas, Article 26 limits Alameda's ability to reduce the traffic, climate and infrastructure costs of future housing that the State of California will require Alameda to build.

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DISCUSSION

To be governed effectively, protect public health and safety, and provide for the needs of all Alameda residents, the City must maintain an internally consistent set of land use regulations go guide the Council's decisions regarding growth and development in Alameda. Currently, the Alameda General Plan and Alameda Municipal Code are internally consistent with State Law, but the City Charter Article 26 is not consistent with the General Plan and Alameda Municipal Code.

Article 26-1 states: *"There shall be no multiple dwelling units built in the City of Alameda."*

The General Plan Housing Element and Alameda Municipal Code permit multiple dwelling units on a number of properties in Alameda. These changes to the General Plan and Zoning Code were adopted in 2012 under direction from the State of California to bring the General Plan and Zoning Code into compliance with State Law.

Since 2012, every major housing development in Alameda has included multiple dwelling units, despite the fact that the City Charter says that they are not permitted.

Article 26-3 states: *"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 General Plan Housing Element and Alameda Municipal Code permit higher residential densities on a variety of properties in Alameda. These changes to the General Plan and Zoning Code were adopted in 2012 under direction from the State of California to bring the General Plan and Zoning Code into compliance with State Law.

Options for City Council Consideration: The City Council could consider four different approaches to resolve these inconsistencies:

**Option 1: Do not place a measure on the ballot to amend the City Charter. Leave it as is.**

Under this option, the City Council would still need to continue to ensure that the General Plan and Zoning Code remains consistent with State Housing Law. With each update of the Housing Element to meet the Regional Housing Need Allocation (RHNA), the City Council would need to continue to adopt zoning and general plan amendments to allow multifamily housing and higher residential densities to meet the RHNA. With each of these amendments, the inconsistencies between the City Charter and the General Plan and Zoning Code will continue to increase.

**Option #2. Place a Measure on the Ballot to Delete Article 26 from the Charter**

Under this option if approved by the voters, the inconsistencies between the City Charter the General Plan and Zoning Ordinance would be eliminated.

With the exception of the sites that were rezoned in 2012, the General Plan and Zoning development regulations for all other properties in Alameda are currently consistent with Article 26-1 and 26-3. Therefore, changing the City Charter would not allow anyone in Alameda to construct multifamily or higher density

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residential buildings on their property than is possible today under the existing General Plan and Zoning Code. In other words, from a development perspective, nothing would change. To allow multifamily housing or a higher density on any of these properties would require a zoning change and general plan amendment approved by the City Council. Before the City Council could change the zoning or general plan to allow a higher density or multifamily housing on any property or properties, the Council would need to complete environmental review and hold multiple public hearings before any action could be taken to increase development potential on a site.

**Option #3. Place a Measure to Delete Article 26-1, but retain Article 26-3.**

This option would eliminate some but not all the inconsistencies.

Similar to Option 2, nothing would actually change for individual property owners, unless the City Council completed environmental review and the public hearings necessary to amend the City zoning ordinance to allow multifamily housing. This approach would allow the Council to amend the Zoning Code to allow multifamily housing on a particular site or zoning district, but the Council would not be able to allow for multifamily units in excess of one unit for every 2,000 square feet of land (Article 26-3). As with Option #1, this direction would continue require that future City Council's would need to adopt zoning and general plan amendments to allow multifamily housing and higher residential densities to meet the RHNA. With each of these amendments, the inconsistencies between the City Charter and the General Plan and Zoning Code will continue to increase.

**Option #4A. Place a Measure to Modify Article 26-1 and Article 26-3 to Recognize Regional Housing Obligations to Meet RHNA.**

Under this option, a measure could be drafted that modifies Article 26-1 and Article 26-3 to acknowledge that the City must allow for multifamily housing and higher densities on specified parcels to meet its Regional Housing Needs Allocation. The modification could read as follows:

Article 26-1 states: *"There shall be no multiple dwelling units built in the City of Alameda, unless multiple dwelling units are needed on a housing opportunity site identified in an adopted Housing Element to meet the City's Regional Housing Needs Allocation as determined by the State of California."*

Article 26-3 states: *"The maximum density for any residential development within the City of Alameda shall be one housing unit per 2,000 square feet of land, unless a higher residential density is needed on a housing opportunity site identified in an adopted Housing Element to meet the State of California's Regional Housing Needs Allocation for Alameda."*

This approach would eliminate the inconsistencies similar to Option 2, but it would limit the City Council's ability to change the General Plan and Zoning to occur on the 8 year Housing Element cycle and only to address regional housing needs. If the City Council wished to entertain a zoning change to allow multiple family housing or higher residential densities on a particular site or district to address climate change policy objectives, transit oriented development objectives, economic development objectives, or any other objective,

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the Council would not be able to consider such an amendment until the 8 year Housing Element update and only if the site is needed to meet the RHNA.

**Option #4-B:**

A modification to Option 4A would be to eliminate Article 26-1 and modify Article 26-3 as identified providing the density limiting to remain, except where higher density is needed to comply with the Regional Housing Needs Allocation, but providing projects more flexibility to build multifamily units with that density.

ENVIRONMENTAL REVIEW

A decision by the City Council to place a measure on the ballot is subject to review under the California Environmental Quality Act to disclose any potential impacts of the action on the environment if the measure is passed by the voters.

In this case, a ballot measure to delete or modify Article 26 as described in the options in this report would have no impact on the environment, because the changes to the Charter would not change, modify or lift the existing General Plan and Zoning restrictions that currently govern the development of property in Alameda today.

The Charter changes would allow the City Council to consider changes to the General Plan and Zoning Code amendments in the future, but any future action by the Council to change the General Plan and Zoning Code limitations for a particular site or district would be subject environmental review. At that time, the environmental analysis will be able to evaluate if the specific proposal would have any potential significant impacts on the environment.

At this time, it would speculative to try to attempt an environmental review of the potential environmental effects or yet to be identified General Plan and Zoning changes.

FINANCIAL IMPACT

If the City Council recommends moving forward with the subcommittee's recommendation, there is no financial impact.

CLIMATE IMPACT

Amending Article 26 of the Alameda City Charter to provide for higher density housing in future developments will not only allow Alameda to meet State of California housing requirements but would also align with California's Climate Change Scoping Plan and studies that show that denser, more efficient and land-use are key strategies for meeting our City, State, National and Global climate goals.

RECOMMENDATION

Provide direction on potential measures amending the City Charter.

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Respectfully submitted by,  
Charter Review Subcommittee

Exhibits:

1. January 13, 2020 Planning Board Staff Report
2. City Charter Article 26 Staff Evaluation
3. January 13, 2020 Planning Board Meeting Public Comment

cc: Eric Levitt, City Manager