

MEASURE C

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE C

Measure C, if approved, would add Article XIX to the San Jose City Charter, limiting the authority of the San Jose City Council to allow non-employment uses on lands the *San Jose Envision 2040 General Plan* designates for employment uses in the Almaden, Evergreen, Calero, Coyote, and San Felipe Planning Areas.

Measure C would apply to "Threatened Employment Lands" consisting of all "Qualifying Parcels" designated for specified industrial, commercial, and urban village uses in the General Plan as of March 8, 2018. "Qualifying Parcels" are parcels or contiguous parcels in common ownership that are: (1) within a Planning Area specified above; (2) five acres or more in size; and (3) completely or partially within one mile inside of San Jose's Urban Growth Boundary.

Measure C would not apply to the conversion of land to a Public/Quasi-Public or Agriculture designation or to public parks, public trails, public open space, and other public uses.

Measure C adds requirements before the City could consider approving a change allowing non-employment uses on Threatened Employment Lands. Measure C would prohibit the Council from considering such a change unless the City prepares an Impact Study at the applicant's cost to determine the potential fiscal, employment, and jobs/housing balance impacts of the proposed change.

The Impact Study must be available for public review and be considered by the City Council at a public hearing. Any such project must also comply with the California Environmental Quality Act (CEQA).

If the Council determines the change would reduce revenue, economic benefits, or the Jobs/Employed Resident Ratio, the Council cannot approve the change unless it determines that the benefits of the proposal outweigh the specified impacts. The Council would retain the power to approve, deny, modify, or condition the change. If the Council approves a change from employment to non-employment development, Measure C states that the Council must require all the following:

- Residential Development:
 - Compliance with the City's Inclusionary Housing Ordinance, but with a higher percentage of the housing at affordable prices, as follows:
 - For-sale units—50% of units affordable to moderate-income households earning no more than 110% of Area Median Income ("AMI").
 - Rental Units—55% affordable, including 35% for moderate-income and 20% for very-low-income (earning no more than 50% AMI) households.
 - Compliance with applicable design and construction laws (including building energy efficiency and Zero Net Energy).
 - Provision of specified support services such as shuttle service as feasible and subject to applicable law.
- All Non-Employment Development, including Residential, must use reclaimed water for landscaping where available.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE C-Continued

Measure C provides it would sunset in 20 years and would prevail over any conflicting or inconsistent provisions in other City laws, including any initiative adopted at the June 5, 2018 election. Measure C authorizes the City Council to adopt laws as necessary to implement Measure C. If adopted, Measure C could be amended or repealed by the voters.

The San Jose City Council placed Measure C on the ballot.

A "Yes" vote is a vote to amend the Charter to implement the changes described above.

A "No" vote is a vote to not make these changes to the Charter.

/s/ Richard Doyle

City Attorney, City of San Jose

COMPLETE TEXT OF MEASURE C

EXHIBIT A TO RESOLUTION NO. 78530 OF THE CITY OF SAN JOSE

The citizens of the City of San Jose do hereby enact the following amendments to the City Charter which may be referred to as: "An Act to Limit Urban Sprawl and the Fiscal and Environmental Effects of Specified Development in Outlying Areas."

Article XIX

An Act to Limit Urban Sprawl and the Fiscal and Environmental Effects of Specified Development in Outlying Areas.

Section 1901. Findings and Purpose.

The people of the City of San Jose find and declare as follows:

- (a) San Jose's experience with rapid growth has provided hard lessons regarding the economic and environmental costs of urban sprawl. The City's sprawling pattern of residential development has led to excessive dependence upon the automobile, and makes more environmentally friendly alternatives such as transit, walking, and cycling more costly and less efficient. It results in higher levels of greenhouse gas emissions, and it burdens residents with higher transportation costs and worse health outcomes than in-fill, transit-oriented residential development.
- (b) In the past, residential development at the City's edge has also led to destruction of precious hillside open spaces and adverse impacts on traffic, water quality, water supply, air quality, and wildlife preservation. Since the mid-1990's, the City has sought to limit these economic costs and adverse environmental impacts through use of an Urban Growth Boundary (UGB) that discourages urban sprawl and establishes the ultimate limit on urbanization within the City. The City's first UGB was adopted by a unanimous vote of the City Council in 1996. The City's voters subsequently adopted Measure A in 2000, establishing the UGB with procedures for its future modification.
- (c) The City has found that urban development at its edge, particularly residential development, also does not generate sufficient revenues to cover the costs of providing urban services—such as police and fire response—and infrastructure—such as roads and sewers—at longer distances.
- (d) San Jose has been described as one of the largest "bedroom communities" in the United States. San Jose has a population of over one million residents with a ratio of only 0.8 jobs per employable resident, which means that there are fewer people in San Jose during the day than at night. The relatively low number of employers within San Jose forces thousands of San Jose residents to commute to jobs in other cities like Santa Clara, Sunnyvale, Mountain View, and Palo Alto.
- (e) The jobs-housing imbalance in the area contributes to congestion on streets and freeways in San Jose, as well as the regional transportation grid, and adds significant time and distance to commutes because a disproportionate number of San Jose residents drive to jobs outside of the City of San Jose.
- (f) The San Jose General Plan identifies improvement of the City's jobs-housing imbalance, or "Jobs/Employed Residents Ratio," as a critical policy goal. In light of this objective, the General Plan seeks to support the generation of 380,000 new jobs through 2040, focusing employment growth in the Downtown area and on existing employment lands citywide like North San Jose, Edenvale, the Monterey Corridor, Evergreen, North Coyote Valley, urban villages, neighborhood business districts, and major commercial corridors along existing and future transit corridors. The General Plan places a strong emphasis on protecting employment lands, and recognizes that further employment land conversions would have significant negative environmental, fiscal and economic implications, contrary to the General Plan's policies.
- (g) The current General Plan, including the Housing Element of the General Plan, also identifies available land that is designated and zoned for 120,000 new housing units consistent with state law, and the City's Housing Element is certified as adequate by the California Department of Housing and Community Development.
- (h) In order to support the development of all types and income levels of housing, including affordable housing at moderate, low, and very-low income levels pursuant to the City Inclusionary Housing Ordinance (San Jose Municipal Code Chapter 5.08), while also preserving and enhancing the quality of the City's neighborhoods and strengthening the Urban Growth Boundary, the General Plan focuses residential development primarily in specifically identified Growth Areas in order to avoid urban sprawl and the costs of City infrastructure and services associated with such sprawl. Accordingly, most new housing development will be achieved through higher-density development in existing urbanized areas.
- (i) The policies in the City's current General Plan were adopted unanimously by the City Council in 2011 after significant review and input (which included 51 public meetings for a 37-member task force leading the drafting of the General Plan and approximately 5,000 community stakeholder comments over a four-year period) in order to achieve a balance between the need for housing and the creation of jobs in San Jose for San Jose residents and to achieve fiscal sustainability. Efforts to alter that balance should be subject to extensive community outreach and environmental review.
- (j) The purpose of this Act is to support existing City policies that limit urban sprawl and to ensure that any future conversion of Threatened Employment Lands to non-employment uses meet specified criteria. These criteria are designed to prevent reduction in City General Fund revenues, City services, and quality of life while assuring that any such conversion provides a substantial public purpose and benefit, including the construction of significant numbers of affordable housing units. The City would be required to consider the requirements of this Act when it evaluates applications from developers or other proposals to convert specified lands that are currently designated and/or zoned for employment purposes to residential or other uses.
- (k) The purpose of this Act is also to enhance the ability of the City Council, in considering future land use changes, to determine and designate appropriate uses of land in a manner that encourages more informed public input and involvement while preserving areas

COMPLETE TEXT OF MEASURE C-Continued

COMPLETE TEXT OF MEASURE C-Continued

of the City for appropriate future growth, discouraging urban sprawl, creating a balance among various types and forms of development, advancing overall community health, and promoting a fiscally strong City.

Section 1902. Definitions.

For purposes of this Act, the following definitions shall apply:

- (a) "Threatened Employment Lands" shall mean all Qualifying Parcels that are designated in the San Jose General Plan, as it existed on March 8, 2018, as any of the following: Combined Industrial/Commercial, Commercial Downtown, Heavy Industrial, Industrial Park, Light Industrial, Mixed Use Commercial, Neighborhood/Community Commercial, Regional Commercial, Transit Employment Center, Urban Village, and Urban Village Commercial. Notwithstanding the foregoing, this Act shall not apply to the conversion of Threatened Employment Lands to a designation of San Jose General Plan Public/Quasi Public or Agriculture, or to proposed conversions of Threatened Employment Lands for public parks, public trails, public open space, or other public uses.
- (b) "Qualifying Parcel" shall mean any parcel or contiguous parcels in common ownership or control that individually or collectively are both:
- (1) five acres or greater in size; and
 - (2) partially or wholly located within one mile inside of the City of San Jose Urban Growth Boundary in any of the following five Planning Areas: Evergreen, Coyote, San Felipe, Almaden, and Calero, as those areas are depicted on the October 2012 map entitled "San Jose Planning Areas." The San Jose Planning Areas Map is attached hereto as Exhibit 1 and incorporated by this reference into the Act. This map shall be maintained as part of the City Charter.

Section 1903. City Policy to Support Urban Growth Boundary by Limiting Conversion of Threatened Employment Lands Supersedes All Conflicting Provisions.

Since 1996, the City of San Jose has had an Urban Growth Boundary (UGB) that discourages urban sprawl and establishes the ultimate limit on urbanization within the City. It is also the policy of the City of San Jose that employment lands be protected from conversion to non-employment uses. In furtherance of these policies, and because sensitive employment lands in certain areas adjacent to the UGB are also threatened by sprawl, land use designations for Threatened Employment Lands and the allowable uses for those lands in the San Jose General Plan, any master plan or specific plan, any development policy, any Municipal Code provision, any zoning ordinance, or Urban Village Plan shall not be changed in a manner that allows non-employment uses unless all of the requirements set forth in Section 1904 are satisfied.

The provisions of this Act shall prevail over all other conflicting or inconsistent provisions in the City's Charter, ordinances, resolutions, or

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other enactments, including initiative enactments, existing as of the effective date of this Act. Any ordinance, resolution, or other enactment adopted on or after the effective date of this Act that purports to allow non-employment uses on Threatened Employment Lands in a manner that does not comply with the provisions of this Act shall be of no force or effect.

Any initiative measure adopted at the June 5, 2018 primary election that purports to impose, create, or apply a non-employment use designation or an overlay designation on Threatened Employment Lands to allow residential development on those lands shall be void in its entirety, notwithstanding any contrary provision of that initiative measure.

Section 1904. Requirements for Conversion of Threatened Employment Lands to Non-Employment Uses.

Before any proposed General Plan amendment, master plan, specific plan, development policy, urban village plan, amendment to the Municipal Code or zoning ordinance, or any other legislative enactment that would allow non-employment uses on Threatened Employment Lands ("proposed legislative change") is considered for approval by the City, the City shall comply with all of the following requirements:

- (a) The City, at the applicant's cost, shall prepare a Fiscal and Jobs/Housing Balance Impact Study ("Impact Study") addressing the potential impacts specified in paragraphs (1) through (3) of this subsection (a), as well as any other fiscal, employment, or jobs/housing balance impacts that may result from non-employment development allowed by the proposed legislative change. The Impact Study shall be made available for public review. The City Council shall consider the Impact Study at a duly noticed public hearing.

Upon consideration of the Impact Study, the City Council shall determine whether approval of the proposed legislative change, as compared to buildout of the employment development that otherwise could occur on the site proposed for development pursuant to applicable underlying land use designations, could result in any of the following impacts:

- (1) An annual net loss of revenue to the City in any fiscal year;
- (2) A reduced annual economic benefit in any fiscal year, considering the direct, indirect, and induced effects of employment, labor income, and economic output, during either construction or operation of the development; or
- (3) Any measureable reduction in the City's Jobs/Employed Resident ratio in any fiscal year or any reduction in long-term employment.

If the City Council determines that the proposed legislative change could result in any of the impacts described in paragraphs (1) through (3) of this subsection, the City Council shall not approve the application for the proposed legislative change unless it determines that the benefits to the City of the proposal outweigh the specified impacts. The City Council shall retain the power to deny, approve, modify, or approve with conditions the proposed legislative change.

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- (b) The City shall require any residential development on Threatened Employment Lands allowed by the proposed legislative change to comply with all applicable inclusionary housing requirements, except that notwithstanding any contrary provisions in those requirements, the minimum number of affordable housing units in the residential development shall be as follows and construction of the units shall be concurrent and proportional to the construction of market rate units in the development:
- (1) For-sale residential development: fifty percent (50%) of the total dwelling units in the residential development shall be made available for purchase at an affordable housing cost to those households earning no more than one hundred ten percent (110%) of the area median income. Such units may be sold to households earning no more than one hundred twenty percent (120%) of the area median income.
 - (2) Rental residential development: thirty-five percent (35%) of the total dwelling units in the residential development shall be made available for rent at an affordable housing cost to moderate income households, and twenty percent (20%) of the total dwelling units in the residential development shall be made available for rent at an affordable housing cost to very low income households.
- (c) Notwithstanding any provision of the proposed legislative change that purports to limit or could be interpreted as limiting the City's duty or ability to comply with the California Environmental Quality Act, Public Resources Code section 21000, et seq. ("CEQA"), the City shall require compliance with CEQA to the fullest extent permitted by law. Specifically, but not by way of limitation of the foregoing, the City shall retain discretion whether to certify or approve CEQA documents related to any application and to approve, deny, or impose conditions on any proposed development as necessary to avoid, minimize, reduce, rectify, or eliminate any significant environmental impacts of the development, including, without limitation, the payment of appropriate fees for road improvements to address traffic impacts.
- (d) The City shall require that any residential development on Threatened Employment Lands allowed by the proposed legislative change to comply with the City Municipal Code and all laws relating to design and construction including but not limited to building energy efficiency standards, including all applicable Zero Net Energy requirements.
- (e) The City shall require that all landscaping in any non-employment development allowed by the proposed legislative change shall be maintained using recycled/reclaimed water where the site is in an area served by recycled/reclaimed water for those uses.
- (f) To the maximum extent feasible, and subject to all applicable federal and state laws, the City shall require that any residential development on Threatened Employment Lands allowed by the proposed legislative change includes provision of support services, at no cost to the City, as appropriate to serve the intended resident population. Support services may include, but are not necessarily

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limited to, the following: (1) assisted living; (2) memory care; (3) nursing care; (4) shuttle service to and from transit centers, medical providers, or social service providers; (5) meal delivery; (6) physical therapy; and (7) primary medical care.

Section 1905. Implementing Legislation.

The City Council is authorized to adopt implementing ordinances or resolutions, as necessary, to further the purposes of this Act.

Section 1906. No Conflict With State or Federal Housing Laws.

Notwithstanding any other provision of this Act, this Act shall not apply to a proposed legislative change that the City determines is required to implement or comply with state or federal housing law, including laws related to the provision of affordable housing.

Section 1907. Interpretation and Severability.

This Act shall be interpreted so as to be consistent with all federal and state laws, rules and regulations. The provisions of this Act are severable. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion ("portion") of this Act is held to be invalid or unconstitutional by a final judgment of a court, such decision shall not affect the validity of the remaining portions of this Act. The voters hereby declare that this Act, and each portion thereof, would have been adopted or passed even if one or more portions of the Act were declared invalid or unconstitutional. If any portion of this Act is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Act which can be given effect without the invalid application.

Section 1908. Sunset.

The provisions of this Act shall be operative for twenty (20) years following the effective date of this Act, and shall thereafter be inoperative unless extended by a duly enacted amendment to this Charter. This date shall be tolled for a period equal to the period during which any litigation or a similar action challenging this Act has been filed and until final judgment or dismissal.

San Jose Planning Areas



ARGUMENT IN FAVOR OF MEASURE C

Vote Yes on Measure C to fight suburban sprawl and prevent developers from making their own rules.

Sprawling development destroys our environment, and burdens San Jose's taxpaying and commuting residents, because sprawl:

- Damages our hillsides and open spaces, and increases greenhouse gas emissions from longer commutes;
- Strains street and sewer systems, stretching City finances to provide police, fire, and other services to outlying areas, undermining service quality for everyone else; and
- Worsens the gridlock on our freeways.

Measure C combats residential sprawl on the environmentally sensitive edges of our City, including Coyote Valley, the Evergreen foothills, and the Almaden Valley.

More than 5,000 residents helped to craft San Jose's General Plan, which embraced an Urban Growth Boundary to limit sprawl and protect our environment. **Measure C fights developers and other special interests who undermine our community's General Plan for their profits.**

Specifically, Measure C strengthens the City Council's ability to deny housing conversions of large sites near our Urban Growth Boundary by requiring environmental and fiscal studies. If conversions are allowed in those areas, then Measure C also requires the developer to:

- **Make at least 50 percent of any housing affordable for moderate-and low-income households;**
- **Pay for road improvements resulting from traffic impacts** of their developments, rather than sticking taxpayers with the bill;
- **Comply with "zero net energy" design standards;**
- **Use recycled water to maintain landscaping**, where possible; and
- **Provide, at no cost to San Jose taxpayers, support services appropriate** for the intended residents, such as shuttle service, assisted living, memory care, or nursing care for seniors or persons with disabilities.

Measure C prevents developers from rewriting our General Plan for the unchecked sprawl that maximizes their profits and destroys our environment. 9 of 10 Councilmembers support Measure C—Jones, Jimenez, Peralez, Diep, Carrasco, Davis, Nguyen, Arenas and Khamis.

ARGUMENT IN FAVOR OF MEASURE C-Continued

Vote Yes on Measure C. For more information, please visit www.StopSanJoseSprawl.com

/s/ Sam Liccardo
Mayor, City of San Jose

/s/ Burton V. Smith
Veteran, Senior Citizen Advocate

/s/ Leslee Ann Hamilton
Executive Director, Environmental Non-Profit, Former San Jose Parks & Recreation Commissioner

/s/ Thang Do
Small Business Owner

/s/ Tamara Alvarado
Non-Profit Executive Director, Mother

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE C

FACT: Measure C was written without the normal extensive public input and review process that is typical for major changes to our City Charter. It was crafted behind closed doors by politicians to confuse voters.

Political insiders allowed Measure C to proceed with less than three days of review and actually put aside San Jose's Sunshine Ordinance, which is designed to protect the public interest by ensuring open government and that the people of San Jose stay in control of the government they created.

FACT: Measure C could result in multiple lawsuits against the City that could cost San Jose taxpayers substantial funds that would be better spent addressing vital city needs, such as public safety, schools, parks and more.

FACT: Instead of helping solve our housing crisis, Measure C seeks to stop the creation of new senior housing in San Jose, including affordable units for seniors and veterans.

FACT: We can't be sure of the long-term and unintended consequences of Measure C because it was developed without proper study and review.

Measure C is a dangerous and poorly written political ploy that was developed without your best interest in mind.

We need real solutions to our City's housing crisis, not more political games that could hurt our City.

Join us in demanding that our City's leaders develop well-thought solutions instead of this flawed, dangerous change to our City Charter. Join us in voting No on Measure C.

/s/ Jeffrey C. Schroeder
Chair, San Jose Residents for Evergreen Senior Homes

/s/ Ernest Kirk, Jr.
Artist

ARGUMENT AGAINST MEASURE C

Measure C is a dangerous and poorly written political ploy that is likely to result in multiple lawsuits against the City and could cost the people of San Jose funds that would be better spent addressing vital city needs. Instead of dealing with our city's important challenges, politicians quickly crafted Measure C in secret behind closed doors to confuse voters and make major changes to our City Charter.

San Jose has a long history as a model of open government, but Measure C was written by political insiders then placed on the ballot with less than three days of review. It did not undergo the normal extensive public input process that is essential for carefully thought out policy. In fact, the lack of proper review could mean that Measure C could actually create more problems than it fixes.

Measure C is not about the status quo or making San Jose better—it is about advancing a political agenda without concern for the long-term and unintended consequences.

We agree that San Jose needs more affordable housing, but this is not a solution to that problem. Rather than spending time developing real solutions for our housing crisis, politicians gave us this flawed measure that is meant to make us think they are taking action.

Measure C could actually cost the City of San Jose substantial funds if passed. These taxpayer dollars would be better spent on public safety, schools, parks, and other vital public services.

Don't be fooled—Measure C is not meant to help San Jose residents. It is a flawed, dangerous smokescreen written in the backroom by politicians and without any public input.

Join us in voting No on Measure C.

/s/ Jeffrey C. Schroeder
Chair, San Jose Residents for Evergreen Senior Homes

/s/ Ernest Kirk, Jr.
Artist

REBUTTAL TO ARGUMENT AGAINST MEASURE C

How do you know our opponents lie? Because "Jeffrey Schroeder, San Jose Residents for Evergreen Senior Homes" signed their ballot argument.

In fact, Schroeder isn't a "San Jose resident."

Rather, **Schroeder is an executive with Ponderosa Homes, the out-of-town developers** seeking to build a gated community of luxury homes in our undeveloped foothills through Measure B.

Why do these developers lie to us to try to defeat Measure C?

Because Measure C protects San Jose's environmentally sensitive hillsides and open spaces, like Coyote Valley and Almaden Valley, from developers who seek to build sprawl there.

Measure C also **protects San Jose's ability to provide police, fire, emergency medical response to our residents**, because poorly-planned sprawl strains those services.

Measure C maintains the public interest over developers' interest, in two ways:

- Whenever developers propose sprawl in environmentally-sensitive outlying areas, Measure C requires environmental and fiscal studies of project impacts; and
- If Council approves the project, Measure C requires developers to provide, at no taxpayer expense:
 - 50% of any housing to be affordable;
 - Road improvements required by increased traffic;
 - "Zero net energy" construction and use of recycled water for landscaping;
 - Support services for residents, such as nursing care for seniors and persons with disabilities.

The process to bring Measure C to the ballot complied with every public disclosure law, and included two public hearings.

Measure C protects our taxpayers, our residents, and our environment by keeping our community in control of development in San Jose.

Join ten members of the San Jose City Council, including Mayor Sam Liccardo, in voting Yes on Measure C.

www.StopSanJoseSprawl.com

/s/ Megan Medeiros
Executive Director, Committee for Green Foothills

/s/ Magdalena Carrasco
Vice Mayor, City of San Jose

/s/ Lan Diep
Councilmember, City of San Jose