

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30754  
LANSING, MICHIGAN 48909

DANA NESSEL  
ATTORNEY GENERAL

September 6, 2024

**By email only**

Honorable Gretchen Whitmer  
Governor, State of Michigan  
The George Romney Building  
Lansing, MI 48909

Attention: Christina Grossi  
Legal Counsel to the Governor

**Re: Ann Arbor Charter Amendment proposed by Initiative Petition**

Section 13.4 (Primary Elections), Section 13.8 (Nominating Petitions) and Section 13.11 (Form of Ballot) – provides for 1) non-partisan city elections, 2) nonpartisan nominating petitions for candidates for elective office in place of the current provision for nomination at a primary election; and 3) elimination of party designations on city ballots

Dear Governor Whitmer:

You have requested review of the referenced initiative petition for an amendment to the Ann Arbor city charter for the November ballot. The proposal eliminates the city's primary election and provides for nonpartisan elections.

The city clerk has determined that the initiative petition is supported by sufficient valid signatures for submission to the city voters. See Section 25 of the Home Rule City Act (HRCA), 1909 PA 279, MCL 117.1 *et seq.*, for the signature requirements for charter amendments proposed by an initiative petition.

For your information, attached is a letter, dated August 20, 2024, from attorney Mark Brewer, legal counsel to Democracy for Ann Arbor regarding the proposed amendment and its ballot language.

Discussion of the proposed amendment

First, the proposed amendment provides for nomination by filing a nominating petition for placement on the ballot for the city's regular election rather than by primary election. Section 3(b) of the HRCA gives a city the option of providing for nomination of its elective officers by partisan or non-partisan primary,

Honorable Gretchen Whitmer

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Ann Arbor charter amendment non-partisan elections

September 6, 2024

by nominating petition, or by convention. Thus, the proposed amendment's elimination of primary elections is authorized by the HRCA.

Second, the proposed amendment eliminates partisan elections and the option of having candidates for city office nominated and elected as members of a political party. Section 3(a) of the HRCA gives a city the option of providing in its charter for city elections that are partisan, nonpartisan, or by any other legal method of voting. Thus, the proposed amendment's elimination of the provision for partisan elections is authorized by the HRCA.

Based on the foregoing analysis, I have reviewed the proposed amendment in light of the Home Rule City Act (HRCA), 1909 PA 279, MCL 117.1 *et seq.*, and conclude that the proposed amendment is consistent with that act.

In the circumstances, as here, of a proposed amendment by initiative petition, it is noted that even if the Governor declines to approve the proposal, Section 22 of the HRCA, nevertheless, requires the proposal to be submitted for voter approval.

The ballot language for the proposed amendment

The Attorney General has a separate responsibility to review the ballot language for compliance with the requirements of Section 21(2) of the HRCA, which mandate that the ballot language be limited to 100 words exclusive of caption, and accurately and impartially describe the proposed amendment. I have examined the ballot language for the proposed amendment set forth in the text of the petition and conclude that the ballot language conforms to the requirements of Section 21 of the HRCA.

Sincerely,

*/s/George M. Elworth*

George M. Elworth  
Assistant Attorney General  
State Operations Division  
(517) 335-7573

GME:bjb

Enc: Correspondence from the Governor's office dated 8-9-24  
Letter, dated 8.20.24, to the Governor and the Attorney General from Mark Brewer, legal counsel to Democracy for Ann Arbor, regarding the proposed charter amendment and the ballot language for the proposal

cc with enc. *by email only*:

Honorable Gretchen Whitmer

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Ann Arbor charter amendment non-partisan elections

September 6, 2024

Jacqueline Beaudry, Ann Arbor City Clerk, [jbeaudry@a2gov.org](mailto:jbeaudry@a2gov.org)

Matthew Thomas, Ann Arbor City Attorney's office, [mthomas@a2gov.org](mailto:mthomas@a2gov.org)

Mark Brewer, Legal Counsel to Democracy for Ann Arbor,

[mbrewer@goodmanacker.com](mailto:mbrewer@goodmanacker.com)

Kristina Gierhart, Executive Assistant, Governor's Office,

[GierhartK1@michigan.gov](mailto:GierhartK1@michigan.gov)

2024-0409517-A

# Enclosure 1

Correspondence from Governor's office  
dated 8-9-2024



STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GRETCHEN WHITMER  
GOVERNOR

GARLIN GILCHRIST II  
LT. GOVERNOR

August 9, 2024

George Elworth  
Attorney General's Office  
State Operations Division  
G. Mennen Williams Building  
Second Floor

**RE: Proposed Charter Amendments via Initiative Petition– City of Ann Arbor**

Dear Mr. Elworth,

Enclosed please find proposed charter amendments from the City of Ann Arbor for your legal review.

I have included a copy of my cover letter to Jacqueline Beaudry, City Clerk for the City of Ann Arbor, for your files. Please let me know if our office may provide you with any further information.

Sincerely,

*/s/ Kristina Gierhart*

Kristina Gierhart  
Executive Assistant for Legal Services  
Office of Governor Whitmer  
(517) 241-5630

c: Attorney General's Office, State Operations Division



STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GRETCHEN WHITMER  
GOVERNOR

GARLIN GILCHRIST II  
LT. GOVERNOR

August 9, 2024

City of Ann Arbor  
Jacqueline Beaudry  
City Clerk  
301 E. Huron Street  
P.O. Box 8647  
Ann Arbor, MI 48107

**Re: Proposed Charter Amendments via Initiative Petition – City of Ann Arbor**

Dear Ms. Beaudry,

On behalf of Governor Whitmer, I am responding to your email and attachments received on August 8, 2024. I am forwarding your information to the Attorney General's Office for legal review of the proposed charter amendments for the City of Ann Arbor. Our office will respond upon completion of that review and recommendation.

Please note that we recommend submission at least 60 days prior to the filing deadline to ensure sufficient time for review and consideration. I've attached here for your records a letter from the Governor's Office of Legal Counsel with additional information on this timeline.

Please contact me if you have any questions or concerns.

Sincerely,

*/s/Kristina Gierhart*

Kristina Gierhart  
Executive Assistant for Legal Services  
Office of Governor Whitmer  
(517) 241-5630

c: Attorney General's Office, State Operations Division



STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GRETCHEN WHITMER  
GOVERNOR

GARLIN GILCHRIST II  
LT. GOVERNOR

August 30, 2021

***VIA EMAIL***

Michigan Association of Municipal Clerks  
120 N. Washington Square  
Suite 110A  
Lansing, MI 48933

**RE: Charter Amendments and Revisions**

Dear Colleagues,

I am writing to request your assistance in notifying municipalities across Michigan of our administration's policy and recommendations regarding charter amendments and revisions.

Under the Home Rule City Act (MCL 117.22) the Governor has the responsibility to review all proposed charter amendments and revisions before any such amendment or revision is presented to the electors. Separately, under Michigan Election Law (MCL 168.646a) municipalities must submit ballot language regarding a proposed charter amendment or revision to the local clerk for certification not later than 4 p.m. on the twelfth Tuesday before the election.

It is a priority of Governor Whitmer's administration to review and respond to proposals by or before this first election filing deadline. It has also been our practice to request the Department of Attorney General review all submissions to our office for compliance with state law. This review takes time and historically guidance has recommended materials be submitted 60 – 90 days prior to the filing deadline to ensure sufficient time to review.

Starting in 2022, our office **will not approve proposed charter amendments or revisions after 4 p.m. on the twelfth Tuesday before the election.** (We will approve changes that fix scrivener's errors for charter amendments and revisions already approved by the deadline.)

We therefore strongly recommend submission of all proposed charter amendments to our office at least **60 days prior** to the filing deadline and strongly recommend submission of all proposed charter revisions to our office at least **90 days prior** to the filing deadline. We are requesting your assistance in notifying municipalities across Michigan of this policy and request.



STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

GRETCHEN WHITMER  
GOVERNOR

GARLIN GILCHRIST II  
LT. GOVERNOR

Proposed amendments and revisions can be sent to our office via email at [Gretchen.Whitmer@michigan.gov](mailto:Gretchen.Whitmer@michigan.gov).

While we prefer email submission, we will also accept submissions sent via mail to:

Governor Gretchen Whitmer  
ATTN: Legal Division  
George W. Romney Building  
111 S. Capitol Avenue  
Lansing, MI 48933

Please note, the Department of Attorney General has an independent obligation to review proposed ballot language under the Home Rule City Act. The Department of Attorney General will continue using their historical process moving forward. For questions about the Department of Attorney General's process, please contact Assistant Attorney General George Elworth at (517) 335-7573 or [ElworthG@michigan.gov](mailto:ElworthG@michigan.gov).

Thank you for your hard work on behalf of Michiganders and for your continued partnership and commitment to improving the lives of residents. If you have questions on the Governor's process, please feel free to contact Kristina Gierhart, Executive Assistant for the Governor's Office of Legal Counsel, at [GierhartK1@michigan.gov](mailto:GierhartK1@michigan.gov).

Sincerely,

A handwritten signature in black ink that reads "Alicia Moon".

Alicia Moon  
Deputy Legal Counsel  
Office of Governor Whitmer

c: Michigan Municipal League  
Michigan Association of County Clerks  
Michigan Department of State, Bureau of Elections  
Michigan Association of Municipal Attorneys  
State Bar of Michigan, Government Law Section  
Department of Attorney General, State Operations Division





## CITY OF ANN ARBOR, MICHIGAN

301 E. Huron Street, P.O. Box 8647, Ann Arbor, Michigan 48107-8647  
Phone (734)794-6140 Fax (734)994-8296 E-Mail: [cityclerk@a2gov.org](mailto:cityclerk@a2gov.org)  
[www.a2gov.org](http://www.a2gov.org)

### City Clerk

August 8, 2024

The Honorable Gretchen Whitmer  
Governor of the State of Michigan  
ATTN: Legal Division  
George W. Romney Bldg.  
P.O. Box 30013  
Lansing, MI 48909-7513

Dear Governor Whitmer:

Pursuant to statute, copies of two proposed citizen-initiated amendments to the Ann Arbor City Charter are being submitted for your approval. The proposed Charter amendments are:

Amend Sections 13.4, 13.8 and 13.11 to provide for non-partisan candidates for those offices filing nominating petitions and removal of reference to a candidate's party designation on the ballot

Add a new Section 13.17 to provide for a continuing and non-lapsing Fair Elections Fund

The proposed Charter language and ballot questions are included with this letter and were included by the petitioner as part of the petition circulation and filing. The petition signatures and filings were certified by the Ann Arbor City Clerk for inclusion on the November 5, 2024 General Election ballot.

Sincerely,

Jacqueline Beaudry  
City Clerk

JB/rr

c: Attorney General Dana Nessel, Washtenaw County Clerk Lawrence Kestenbaum

## **Certification of Validity of Petition to Place Ballot Question before the Electors of the City of Ann Arbor on November 5, 2024**

I, Jacqueline Beaudry, City Clerk for the City of Ann Arbor, County of Washtenaw, State of Michigan, certify that:

On July 9, 2024, an initiatory petition for amendment of the Ann Arbor City Charter to amend Sections 13.4, 13.8 and 13.11 to provide for election of non-partisan candidates for those offices filing nominating petitions and removal of reference to a candidate's party designation on the ballot. was filed with the Office of the City Clerk by Mr. John Godfrey;

The initial filing included 779 petition sheets and approximately 6200 signatures. An additional supplemental filing on July 29, 2024 included 40 additional petition sheets. On July 9, 2024, the count of registered voters in the City of Ann Arbor was 114,101 voters, requiring 5705 signatures (5% of registered voters);

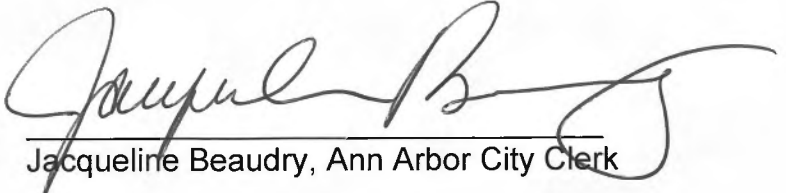
Pursuant to the Home Rule City Act, MCL 117.25 and Michigan Election law, the petition signatures were canvassed and 5868 signatures were determined to be valid and qualified on August 5, 2024;

The petition included the following ballot language:

It is proposed City Charter Sections 13.4, 13.8, and 13.11 be amended to provide for election of non-partisan candidates for those offices by filing of nominating petitions and removal of reference to a candidate's party designation on the ballot. Shall this proposed amendment to the Ann Arbor City Charter be adopted?

The petition is hereby certified for placement on the November 5, 2024 General Election ballot, having contained a sufficient number of signatures of qualified and registered electors of the City of Ann Arbor, in accordance with the provisions of PA 279 of 1909, as amended.

Date: August 7, 2024

  
Jacqueline Beaudry, Ann Arbor City Clerk

## Nonpartisan Elections

### SECTION 13.4

THERE SHALL NOT BE A PRIMARY ELECTION FOR CITY ELECTIVE OFFICES.

#### ~~SECTION 13.4.~~

- ~~(a) A City primary election for the purpose of nominating such officers of the City as this Charter provides shall be held on August 8, 2017, and in succeeding years on the first Tuesday following the first Monday in August as provided for in Section 12.4. If, upon expiration of the time for filing nomination petitions for any elective office, it appears that petitions have been filed for no more than one candidate for the office from each political party nominating candidates therefor, no primary election shall be held with respect to the office. The nominees for election to the respective offices for which they are candidates shall be selected pursuant to Section 13.5. As to any office with respect to which no primary is necessary, persons named in petitions as candidates for election to the office shall be certified by the Clerk to the Election Commission to be placed upon the ballot for the next subsequent regular election under the party heading set forth in the nomination petitions for the candidates. (Amended by elections of November 3, 1992, November 8, 2016 and November 2, 2021.)~~
- ~~(b) No person who is a sticker candidate for nomination, or whose name is written in on the ballots at any primary election, shall be declared nominated unless that person receives at least fifty votes.~~

## Nomination Petitions

### SECTION 13.8

- (a) A person desiring to qualify as a candidate for an elective City office shall file with the Clerk a NONPARTISAN nomination petition consisting of one or more official petition forms. Each petition filed by or on behalf of a person seeking nomination to the offices of Mayor shall be signed by not less than 250 nor more than 350 registered electors including at least 50 signatures of residents of each ward. Each petition filed by or on behalf of a person seeking nomination to the office of Council Member shall be signed by not less than 100 nor more than 200 registered electors of the ward from which the person seeks to be elected. (Amended by election of April 4, 1988.)
- (b) Official petition forms, substantially similar to those required by law for state and county officers, shall be prepared and furnished by the Clerk. Before the Clerk furnishes petition forms to any person, the Clerk shall enter thereon, in ink or by typewriter, the name of the person in whose behalf the petition is to be circulated and the name of the office for which the person is a candidate. No petition form which has been altered with respect to such entries shall be received by the Clerk for filing. NONPARTISAN nomination petitions for the purpose of filling a vacancy shall so state. Petitions shall be filed with the Clerk not later than 5:00 p.m., on the seventh Monday prior to the date of the regular City primary election. The Clerk shall publish notice of the last day, time, and place for filing nomination petitions at least one week but not more than three weeks before that date.

(c) Upon the filing thereof, nomination petitions shall be public records and open to public inspection, but only in the presence and upon the authority of the Clerk or an authorized employee of the Clerk's office.

#### Form of Ballots

SECTION 13.11. The names of all persons nominated for election to each office shall be placed upon the ballot. The form of the ballot used in any City ~~primary~~ or election and the printing and numbering thereof shall conform, as nearly as may be, with the requirements of the general election laws of the State. NO PARTY VIGNETTE OR EMBLEM OR OTHER DESIGNATION SHALL APPEAR ON THE BALLOT.



## CITY OF ANN ARBOR, MICHIGAN

301 E. Huron Street, P.O. Box 8647, Ann Arbor, Michigan 48107-8647  
Phone (734)794-6140 Fax (734)994-8296 E-Mail: [cityclerk@a2gov.org](mailto:cityclerk@a2gov.org)  
[www.a2gov.org](http://www.a2gov.org)

### City Clerk

August 5, 2024

Mr. John Godfrey  
2809 Brockman Blvd  
Ann Arbor, MI 48104  
Via Email: [godfreyjna@gmail.com](mailto:godfreyjna@gmail.com)

Dear Mr. Godfrey:

The City Clerk's Office has completed the canvass of your citizen-initiated petition submitted to our office on July 9, 2024, for amendment of the Ann Arbor City Charter to amend Sections 13.4, 13.8 and 13.11 to provide for election of non-partisan candidates for those offices filing nominating petitions and removal of reference to a candidate's party designation on the ballot. The initial filing included 779 petition sheets and approximately 6200 signatures, based on our office's initial estimate. On July 9, 2024, the count of registered voters was 114,101 voters, requiring 5705 signatures (5% of registered voters).

Including your initial filing plus a supplemental filing of an additional 40 petition sheets on July 29, 2024, a total of 6252 signatures were recorded in the Qualified Voter File, after the rejection of 323 duplicate signatures. Of the remaining signatures, 5868 were determined to be valid and qualified. All petition sheets were checked in for the determination to meet the signature requirement.

The petition is hereby certified for placement on the November 5, 2024 General Election ballot, having contained a sufficient number of signatures of qualified and registered electors of the City of Ann Arbor, in accordance with the provisions of PA 279 of 1909, as amended.

Sincerely,

Jacqueline Beaudry  
City Clerk  
cc: City Election Commission

**INSTRUCTIONS ON REVERSE SIDE**

**LOCAL PROPOSAL PETITION**

- Circulator is a paid signature gatherer
- Circulator is a volunteer gatherer

We, the undersigned qualified and registered electors, residents in the  City  Township  Village of Ann Arbor in the County of Washtenaw, State of Michigan, respectively petition for:

It is proposed City Charter Sections 13.4, 13.8, and 13.11 be amended to provide for election of \_\_\_\_\_ non-partisan candidates for those offices by filing of nominating petitions and removal of reference to a candidate's party designation on the ballot. Shall this proposed amendment to the Ann Arbor City Charter be adopted? For the full text of City Charter Sections 13.4, 13.8, and 13.11 see the reverse side of this petition.

Paid for with regulated funds by Democracy for Everyone, PO Box 3582, Ann Arbor, MI 48106

If the petition circulator does not comply with all of the requirements of the Michigan election law for petition circulators, any signature obtained by that petition circulator on that petition is invalid and will not be counted.

**WARNING - A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.**

	Signature	Printed Name	Street Address or Rural Route	Zip Code	DATE OF SIGNING		
					Month	Day	Year
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

**CERTIFICATE OF CIRCULATOR**

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the City or Township listed in the heading of the petition, and the elector was qualified to sign the petition.

If the circulator is not a resident of Michigan, the circulator shall make a cross [X] or check mark [✓] in the box provided, otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the Secretary of State or a designated agent of the Secretary of State has the same effect as if personally served on the circulator.

**WARNING - A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as a circulator is guilty of a misdemeanor.**

**CIRCULATOR - Do not sign or date certificate until after circulating petition.**

(Signature of Circulator) \_\_\_\_\_ (Date) \_\_\_\_\_

(Printed Name of Circulator) \_\_\_\_\_

(Complete Residence Address [Street and Number or Rural Route]) - [Do not enter a post office box]

(City or Township, State, Zip Code)

(County of Registration, if Registered to Vote, of a Circulator who is not a Resident of Michigan)

## NOTICE

This form complies with Michigan election law, MCL 168.488 and 168.544d. Before using this form, you are strongly encouraged to review the provisions of Michigan law which grant you the right to place your proposal on the ballot through a petitioning process to determine if any additional petition formatting requirements are specified. If additional requirements are specified under the governing statutes, this form cannot be used.

### READ BEFORE CIRCULATING PETITION

Complete the heading of the petition before circulating it.

- Enter the city, township, or village and county where the petition will be circulated, and indicate whether the jurisdiction listed is a "city," "township," or "village." **Do not list more than one city, township, or village.** (Note: If the petition includes a county proposal, note that this petition sheet can only be circulated within a single city, township or village; it *cannot* be circulated countywide. Use the County Proposal (Countywide) form instead.)
- Enter an appropriate description of your proposal.

Make sure that all signers complete the petition. Ask each signer:

- Whether he or she is registered to vote in the city, township or village listed in the heading.
- To sign and print his or her full name on the petition.
- To enter the street address or rural route where registered to vote. A P.O. Box provided in lieu of a residential address is not acceptable.
- To write the zip code and date of signing.

Complete the circulator's certificate after circulating the petition.

- Sign and print your full name and enter the date of signing. Signatures on the petition which are dated after the date on the circulator's certificate are invalid.
- Enter your complete residence address (street and number or rural route – do not enter a P.O. Box), city or township, and state.
- If you do not reside in Michigan, check the box located in the lower left corner of the petition sheet and enter your county of registration (if you are registered to vote in your home state).

Remember:

- Ask potential signers whether and where they are registered to vote. Voter registration information may be found at [Michigan.gov/Vote](http://Michigan.gov/Vote).
- Review each signer's entry for completeness. If information is omitted, ask the signer to fill in the blank(s).
- Do not leave the petition unattended.

Nonpartisan Elections  
SECTION 13.4  
THERE SHALL NOT BE A PRIMARY ELECTION FOR CITY ELECTIVE OFFICES.

#### SECTION 13.4.

(a) A City primary election for the purpose of nominating such officers of the City as this Charter provides shall be held on August 8, 2017, and in succeeding years on the first Tuesday following the first Monday in August as provided for in Section 12.4. If upon expiration of the time for filing nomination petitions for any elective office, it appears that petitions have been filed for no more than one candidate for the office from each political party nominating candidates, therefor, no primary election shall be held with respect to the office. The nominees for election to the respective offices for which they are candidates shall be selected pursuant to Section 13.5. As to any office with respect to which no primary is necessary, persons named in petitions as candidates for election to the office shall be certified by the Clerk to the Election Commission to be placed upon the ballot for the next subsequent regular election under the party heading set forth in the nomination petitions for the candidates. (Amended by elections of November 2, 1992, November 8, 2016 and November 2, 2021.) (b) No person who is a sticker candidate for nomination, or whose name is written in on the ballots at any primary election, shall be declared nominated unless that person receives at least fifty votes.

#### Nomination petitions

##### SECTION 13.8

(a) A person desiring to qualify as a candidate for an elective City office shall file with the Clerk a NONPARTISAN nomination petition consisting of one or more official petition forms. Each petition filed by or on behalf of a person seeking nomination to the offices of Mayor shall be signed by not less than 250 nor more than 350 registered electors, including at least 50 signatures of residents of each ward. Each petition filed by or on behalf of a person seeking nomination to the office of Council Member shall be signed by not less than 100 nor more than 200 registered electors of the ward from which the person seeks to be elected. (Amended by election of April 4, 1988.) (b) Official petition forms, substantially similar to those required by law for state and county officers, shall be prepared and furnished by the Clerk. Before the Clerk furnishes petition forms to any person, the Clerk shall enter thereon, in ink or by typewriter, the name of the person in whose behalf the petition is to be circulated and the name of the office for which the person is a candidate. No petition form which has been altered with respect to such entries shall be received by the Clerk for filing. NONPARTISAN nomination petitions for the purpose of filling a vacancy shall so state. Petitions shall be filed with the Clerk not later than 5:00 p.m., on the seventh Monday prior to the date of the regular City primary election. The Clerk shall publish notice of the last day, time, and place for filing nomination petitions at least one week but not more than three weeks before that date. (c) Upon the filing thereof, nomination petitions shall be public records and open to public inspection, but only in the presence and upon the authority of the Clerk or an authorized employee of the Clerk's office.

#### Form of Ballots

SECTION 13.11. The names of all persons nominated for election to each office shall be placed upon the ballot. The form of the ballot used in any City primary election and the printing and numbering thereof shall conform, as nearly as may be, with the requirements of the general election laws of the State. NO PARTY VIGNETTE OR EMBLEM OR OTHER DESIGNATION SHALL APPEAR ON THE BALLOT.



# Enclosure 2

8.20.24 letter to Governor and AG from attorney  
Brewer for Democracy for Ann Arbor



August 20, 2024

\*\*BARRY J. GOODMAN  
TIM SULOLLI  
JORDAN B. ACKER  
\*\*\*BRADLEY M. PERI  
MARK BREWER  
AMANDA B. WARNER

VIA EMAIL

RONITA BAHRI  
NICOLE M. MCCARTHY  
JOSHUA C. MAYOWSKI  
ROWAN E. CONYBEARE  
DAVID E. GORNEY

\*\*ALSO ADMITTED IN FL  
\*\*\*ALSO ADMITTED IN NY

[WWW.GOODMANACKER.COM](http://WWW.GOODMANACKER.COM)

Governor Gretchen Whitmer  
c/o Kristina Gierhart  
Executive Assistant for Legal Services  
Office of the Governor  
Romney Bldg.  
111 S. Capitol Avenue  
Lansing, MI 48909

Attorney General Dana Nessel  
c/o Assistant Attorney General  
George Elworth  
Department of Attorney General  
G. Mennen Williams Bldg.  
525 W. Ottawa Street  
P.O. Box 30212  
Lansing, MI 48909

Re: Comments on City of Ann Arbor Non-Partisan Election Charter Amendments

Dear Governor Whitmer and Attorney General Nessel:

We are legal counsel to Democracy for Ann Arbor and write with legal comments on both these proposed Charter amendments and the proposed ballot language. Both are defective.

### **THE CHARTER AMENDMENTS**

Under the Home Rule Cities Act, city charter amendments must be transmitted to the Governor for approval or objections. MCL 117.22. The governor should not approve and should object to these charter amendments for several reasons.

First, the proposal seeks to amend only 3 sections of the Charter: 13.4, 13.8, and 13.11. However, in order to accomplish its goals of nonpartisan elections without primaries other sections of the Charter must be amended as well and were not:

1) Section 12.14 has several references to primary elections as part of the procedure to fill vacancies but the proposed charter amendments fail to amend that section. This defect renders this section inoperative.

2) Section 13.13 on recounts includes several references to primary elections which were not deleted.

3) Section 3.14 references a primary election and was not deleted.

#### **SOUTHFIELD • MAIN OFFICE**

17000 WEST TEN MILE ROAD, SECOND FLOOR • SOUTHFIELD, MICHIGAN 48075 • PHONE 248.483.5000 • FAX 248.483.3131

#### **GRAND RAPIDS**

1500 E BELTLINE AVE SE, SUITE 235 • GRAND RAPIDS, MICHIGAN 49506 • PHONE 616.582.7225

4) Section 13.15 refers to “nominations” but without primaries there will be no nominations.

The Charter amendments are poorly drafted, failing to amend several sections to make them compatible with the proposed changes.

Finally, the Charter amendments directly conflict with state election law in at least one way. State election law allows certain ballot designations to be used to, for example, distinguish between candidates with similar or identical names. *See, e g*, MCL 168.561a, 168.696. The proposal’s ban on “other designation[s]. . . on the ballot” in Section 13.11 conflicts with these state election laws.

The amendments were poorly drafted and conflict with state election law.

### **THE BALLOT LANGUAGE**

The ballot language must be “true and impartial” without creating prejudice for or against the proposal. MCL 117.21(2). The proposed ballot language fails these standards in several ways and cannot be used.

The proposal language focuses solely on rendering City elections nonpartisan. In so doing the language fails to advise the voters of several other material changes to the Charter:

- 1) the proposal takes away the right to vote in primary elections by abolishing them in Section 13.4(a);
- 2) the proposal takes away the right to write-in candidates by deleting Section 13.4(b);  
and
- 3) the proposal conflicts with state law by prohibiting all ballot designations in Section 13.11.

In order to be “true and impartial” as required by law the ballot language should be rewritten as follows:

If adopted, the proposed Charter amendments would:

- Take away the right to vote in city primary elections by abolishing primaries;
- Take away the right to write-in a candidate for city office;
- Conflict with state election law allowing certain ballot designations; and
- Make city elections nonpartisan.

Shall these proposed amendments be adopted?

This 51-word ballot language complies with the law; the proposed ballot language does not.

### CONCLUSION

The proposed charter amendments should not be approved by the Governor because they were poorly drafted and conflict with state election law. The proposed ballot language is not “true and impartial” and must be rewritten as indicated.

Sincerely,

GOODMAN ACKER, P.C.

*Mark Brewer*

Mark Brewer