STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

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LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

August 7, 2026

By email only

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

Attention: Aditya Vedapudi

Re: City of Ypsilanti – Initiative Petitions to Amend Charter

Dear Governor Whitmer:

You referred to this office the proposed initiative petitions and city clerk's certificates of sufficiency proposing to amend the City of Ypsilanti Charter. The Ypsilanti City Counsel, at their March 17, 2026 meeting, issued Resolution No. 2026-076 directing the City Clerk to forward the certificates of sufficiency and the initiative petitions to amend the City charter for nonpartisan elections and to cap police expenditures for submission to the city voters on November 3, 2026.

I have reviewed the proposed amendments in light of the Home Rule City Act (HRCA), 1909 PA 279, MCL 117.1, *et seq*., and other applicable laws. We opine the charter amendment related to making the City of Ypsilanti elections nonpartisan is consistent with the HRCA. But we do not recommend approval of the initiative petition related to capping the budgetary expenditures for the police.

Proposal 1 – Nonpartisan elections

Currently, the Charter requires candidates for elective City office to be nominated through partisan primary elections and to run either with political party designation or as independents. Under the existing Charter, any candidate who properly files a nominating petition appears on the primary ballot identified by political party and the office sought, and the candidate from each party receiving the highest number of votes advances as the party's nominee for the next regular City election. (Charter § 3.04, Nomination for office, and § 3.06, Nominating petitions.) This proposed amendment would eliminate the partisan designation requirement and make the City elections nonpartisan.

The adoption of the proposed amendment is consistent with Section 3(a) of the HRCA. MCL 117.3(a). This provision permits elections to be partisan, nonpartisan or preferential.

Further, the ballot language conforms to the requirements of Section 21(2) of the HRCA, including being accurate and less than 100 words, exclusive of caption.

Proposal 2 – Capping police expenditures

Of note, the media is covering this proposal and one councilmember has posted a Facebook video expressing his concerns with this amendment.[1]

Currently, Section 5.4 of the City of Ypsilanti's Charter sets forth generally how the budget will be handled, including having a financial plan, keeping an account of income and expenditures, and estimating income and expenditures for the current year. The initiative petition provides that the City Council could not budget police expenditures above the previous year's budgeted police expenditures unless the increase is approved by a majority of the voters and requires the enactment of ordinances effectuating the limitation.

We have concerns, generally, with the authority by initiative petition to set limitations on a city's budgetary decisions. While an initiative may certainly directly affect the budget in a number of ways, it is not clear that a petition may tie city government's hands with respect to its budgetary decision-making. The Michigan Constitution provides that each city is granted power to levy taxes, other than ad valorem, for public purposes, subject to limitations and prohibitions provided by the constitution or by law. Mich. Const. 1963, art VII, § 21. Relative to budgets, the Constitution provides that any city "empowered by the legislature or by this constitution to prepare budgets of estimates expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law." *Id.* § 32.

Cities are also subject to the Uniform Budgeting and Accounting Act (UBAA), MCL 141.421 *et seq*. This requires the chief administrative officer, or other person designated by the charter, to prepare a recommended budget to be considered by the city. *Id.,* MCL 141.434(1)–(5). And, prior to being passed, requires the city conduct a public hearing. MCL 141.434(5). The recommended budget must contain

[1] Ypsilanti City Council sends police budget ballot language to Governor | WEMU-FM; Michigan governor expected to review Ypsilanti police funding ballot language - The Eastern Echo; Ypsilanti ballot initiatives target police budget, nonpartisan elections, tenants rights - mlive.com; A proposed Ypsilanti City Charter amendment to control police expenditures. What could possibly go wrong? | City Council Member Patrick McLean | Facebook

expenditure data for the most recently completed fiscal year and estimated expenditures for the current fiscal year. MCL 141.435(1)(a). It provides that the total estimated expenditures, including an accrued deficit, shall not exceed the total estimated revenues. MCL 141.435(2). The UBAA also provides a process for amendment if it becomes apparent that a deviation from the original general appropriations act is necessary. MCL 141.437.

The City of Ypsilanti Charter, consistent with the foregoing statutory provisions, provides that the City Manager, after input from City Council regarding priorities, must submit a proposed budget for the next fiscal year to the City Council on or before the first day of May of each year. (Charter, § 5.02, Preparation and submission of a budget.) The City Council has to publish a general summary of the budget, make it available for inspection, and conduct a public hearing. (*Id.* § 5.05(a), City Council action on budget.) It provides that City Council can then adopt the budget with or without amendment. *Id.*, § 5.05(b). The Charter also provides that the City Council "shall provide by ordinance the procedures for administering the budget." (Charter, § 5.09, Administration of the budget.) And supplemental appropriations of excess funds can be made by the City Council by ordinance. (*Id.*, §5.07(a), Amendments [of the budget] after adoption.) But, in *Settles v Bradley*, 169 Mich App 797, 801–802, the Michigan Court of Appeals noted that the Constitutions initiative power of the people does "not include the power of initiative with respect to local ordinances." *Korash v Livonia*, 388 Mich 737, 742, n 3 (1972).

The power of a home rule city to provide for initiative petitions derives from statute. *Detroit Coal v Detroit City Clerk & Detroit*, No. 241648, 2002 Mich App LEXIS 3039, at *2–3 (Ct. App. Oct. 22, 2002). The HRCA provides that "[e]ach city may provide in its charter for . . . [t]he initiative and referendum on all matters within the scope of the powers of that city and the recall of city officials." MCL 117.4i(g). The Ypsilanti Charter does provide that "[a]ny ordinance and all matters within the scope of the City's powers may be initiated by petition, and the referendum on any adopted ordinance and in all matters within the scope of the City's powers may be had by petition to the extent permitted by law." (Charter, § 2.15, Initiative and referendum.) And the Constitution provides that the power to propose, enact and reject laws via initiative is reserved to the people. Const. 1963, art 2, § 9. However, no "provisions of any city charter shall conflict with or contravene the provisions of any general law of the state." MCL 117.36.

Given that the Michigan Constitution, the UBAA, and the Ypsilanti Charter have provisions related to the city's responsibilities in the preparation of a budget, including the requirement that the budget be presenting at a public meeting, it appears this initiative petition is contrary to law or, at a minimum, does not sufficiently amend the charter to accomplish the objective.

While not authoritative, in *Totten v Bd of Supervisors*, 139 Cal App 4th 826, 830 (2006), a California appellate court concluded that in a general law county, the enactment via an initiative petition "prescribing minimum future annual budgets for county public safety agencies" "exceeds the electorate's initiative power and is constitutionally invalid." *Id.*

The process in *Totten* was similar to Michigan relative to local government budgets, including that a proposed budget would be prepared and reviewed by the board and a public hearing would be conducted. *Id.* at 832–833. In *Totten,* the court explained that the "auditor cannot submit his tabulation each year to the electorate for approval. Because the electorate can only cast their ballots at the polls, they do not have the means to 'consider' the tabulation and 'make any revisions, reductions or additions therein that they deem advisable." *Id.* at 835. It appears that Ypsilanti would have the same type of issues in being able to pass an annual budget, which must be adopted by June 7th of each year. (Charter §5.05(c), City Council action on budget.)

Even if the proposed amendment on this issue was able to be done by initiative petition, the proposed charter amendment does not address all of the other provisions of the charter that would have to be amended. The current charter provision sought to be amended is related generally to the city budget and provides what information should be contained in the budget, including a clear summary, estimate income, proposed property tax levy, expenditures, and actual and estimated income and expenditures for previous and current year. But, problematically, this initiative petition, if passed, would impact so many other provisions of the Charter related to the budget, timing, approval process, etc., as the amendment only changes § 5.04 related to the budget.

The ballot language itself conforms to the requirements of Section 21(2) of the HRCA, including being accurate and less than 100 words, exclusive of caption.

Sincerely,

Kim Pendrick

Kimberly K. Pendrick
Assistant Attorney General
Elections & Municipal Affairs Division

KKP/kkp
Enc.
cc by email only with enc.:

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Lisa Britton, Ypsilanti Deputy City Clerk
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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

August 11, 2026

Lisa Britton
Deputy City Clerk
City of Ypsilanti
1 S. Huron St.
Ypsilanti, MI 48197

Re: **City of Ypsilanti – Proposed Charter Amendment via Initiative Petition**

Dear Ms. Britton,

I am responding to the request for approval of two proposed charter amendments via initiative petition.

Proposed Amendment 1
The first proposed charter amendment would eliminate the partisan designation requirement and make City of Ypsilanti elections nonpartisan. Based on the review by the Attorney General's Office, I am notifying you that I approve of the amendment pursuant to the Home Rule City Act, 1909 PA 279, MCL 117.1, *et seq.*, for submission to the voters at an election to be held on November 3, 2026.

Proposed Amendment 2
The second proposed charter amendment provides that the City Council could not budget police expenditures above the previous year's budgeted police expenditures unless the increase is approved by the majority of the voters, and requires the enactment of ordinances effectuating the limitation.

As explained in the attached legal review, the Department of Attorney General has concluded that the proposed amendment is inconsistent with the Michigan Constitution, the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.*, and the Ypsilanti Charter, or, at a minimum, does not sufficiently amend the charter to accomplish the objective. Accordingly, I am notifying you that I do not approve the proposed amendment.

Please contact my office if you have any questions or concerns.

Sincerely,

Gretchen Whitmer

Governor

c: Elections & Municipal Affairs Division, Office of the Attorney General