

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30754
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

July 3, 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: City of Ann Arbor – Proposed Charter Amendment

Section 15.10 – (new section) – provides that the city shall construct, own and operate within its boundaries an opt-in, fee-based, publicly-owned Sustainable Energy Utility to (i) supply, generate, transmit, distribute, and store electricity, heat, cooling, light, and power (all from renewable sources) and (ii) provide energy-related services

Dear Governor Whitmer:

You have referred to this office the referenced charter amendment adopted by resolution of the Ann Arbor City Council at its meeting held on May 6, 2024, for submission to the city's voters at the General Election to be held on November 5, 2024.

The amendment adds a section to Chapter 15 (Public Utility Services), which provides that the city shall construct, own and operate within its boundaries an opt-in, fee-based publicly owned Sustainable Energy Utility to (i) supply, generate, transmit, distribute, and store electricity, heat, cooling, light, and power (all from renewable sources) and (ii) provide energy-related services. Section 4-c of the Home Rule City Act (HRCA), 1909 PA 279, MCL 117.1 *et seq.*, includes the authority for a city to own and operate a public utility as a permissible charter provision.

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.

Honorable Gretchen Whitmer
Page 2
City of Ann Arbor (Sustainable Energy Utility)
July 3, 2024

Review of Ballot language

The Attorney General has a separate responsibility to review proposed ballot language for compliance with the requirements of Section 21 of the HRCA. I have examined the ballot language for the proposed amendments as set forth in the City Council's resolutions and conclude that the ballot language conforms to the requirements of Section 21(2) of the HRCA, including being accurate, impartial, and not more than 100 words, exclusive of caption.

Sincerely,

/s/George M. Elworth

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

GME:bjb

Encs:

1. Correspondence from Governor's office dated 5.16.2024, with unsigned resolution
2. AG's copy of Ann Arbor's package to Governor with signed resolution

cc by email only, with encs:

Jacqueline Beaudry, City Clerk: jbeaudry@a2gov.org

Matthew Thomas, Ann Arbor City Attorney's office, mthomas@a2gov.org

Kristina Gierhart, Executive Assistant, Governor's Office,

Gierhartk1@michigan.gov

2024-0401956-A

Enclosure 1

Correspondence from Governor's office
dated 5.16.2024, with unsigned resolution



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

May 16, 2024

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

RE: **Proposed Charter Amendment– City of Ann Arbor**

Dear Mr. Elworth,

Enclosed please find a proposed charter amendment 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

May 16, 2024

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

Re: Proposed Charter Amendment – City of Ann Arbor

Dear Ms. Beaudry,

On behalf of Governor Whitmer, I am responding to your email and attached letter dated May 16, 2024. I am forwarding your information to the Attorney General's Office for legal review of the proposed charter amendment for the City of Ann Arbor. Our office will respond upon completion of that review and recommendation.

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



City Clerk

CITY OF ANN ARBOR, MICHIGAN
301 E. Huron Street, P.O. Box 8647 | Ann Arbor, Michigan 48107-8647
(p) 734.794.6140 | (f) 734.994.8296
cityclerk@a2gov.org | www.a2gov.org

May 16, 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, a copy of the proposed amendment to the Ann Arbor City Charter is being submitted for your approval. The proposed charter amendment would be that the City shall establish, construct, own and operate within its boundaries an opt-in, publicly-owned Sustainable Energy Utility ("SEU") to (i) supply, generate, transmit, distribute, and store electricity, heat, cooling, light, and power (all from renewable sources); and (ii) provide energy-related services. The SEU will be fee-based.

The proposed charter language is included in the enclosed certified resolution, adopted by the Ann Arbor City Council at its regular session of May 6, 2024. The resolution authorizes the charter amendment proposition to appear 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



City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Certified Copy

Resolution: R-24-154

File Number: 24-0825

Enactment Number: R-24-154

Resolution to Order Election and to Determine Ballot Question for Charter Amendment for Creation of a Sustainable Energy Utility (**7 Votes Required**)

Whereas, In November of 2019 Ann Arbor City Council unanimously passed a Climate Emergency Declaration and established the goal of a just transition to community-wide carbon neutrality by 2030;

Whereas, Ann Arbor City Council unanimously adopted the A2ZERO Carbon Neutrality Plan in June of 2020 as a means to achieve that carbon neutrality goal;

Whereas, In furtherance of its carbon neutrality goal, the City of Ann Arbor retained the team of 5 Lakes Energy, SunStore Energy, Potomac Law Group and NewGen to explore potential energy option pathways to achieve the A2ZERO vision;

Whereas, On September 26, 2023 a work session of City Council was held during which the City's consultant team presented their "100% Renewable Energy Options Analysis Technical Report;"

Whereas, A key recommendation in the 5 Lakes Energy Technical Report was to pursue a Sustainable Energy Utility ("SEU") to accelerate renewable energy in the City and provide resilience within the City of Ann Arbor;

Whereas, Following the work session City Staff received the consultants' models late in 2023 and undertook significant work to validate and re-calibrate the models, as needed, to ensure their applicability to the Michigan context, especially considering the new clean energy laws that were enacted;

Whereas, Based on all these combined efforts and Council's direction, City Staff provided a report to Council in February of 2024 summarizing recommendations related to electricity-related energy options to achieve the City's A2ZERO goal;

Whereas, In the February 2024 report, City Staff recommended that the City invest in three core actions to advance progress toward A2ZERO's 100% renewable electricity goal, the first of which was to "put the formation of a Sustainable Energy Utility to a vote of the people;"

Whereas, City Council finds the recommendation regarding an SEU to be a key step toward achieving the A2ZERO goal while increasing resilience, lowering energy costs for participants, and giving citizens more choices and power over their energy options; and

Whereas, November 5, 2024 is the next regular election;

RESOLVED, That the Ann Arbor City Council proposes that the City Charter be amended by adding Section 15.10 to read as follows:

Creation and Operation of a Sustainable Energy Utility

SECTION 15.10. The City of Ann Arbor shall establish, construct, own and operate within its boundaries an opt-in, publicly-owned Sustainable Energy Utility (“SEU”) to (i) supply, generate, transmit, distribute, and store electricity, heat, cooling, light, and power (all from renewable sources); and (ii) provide energy-related services. The SEU will be fee-based.

RESOLVED, That November 5, 2024 is designated as the day for holding an election on the proposed Charter amendment;

RESOLVED, That the Clerk shall transmit a copy of the proposed amendment to the Governor and Attorney General of Michigan and perform all other acts required by law for holding the election;

RESOLVED, That the proposed Charter amendment shall appear on the ballot in the following form:

ANN ARBOR CITY CHARTER AMENDMENT
CREATION OF A SUSTAINABLE ENERGY UTILITY

The City of Ann Arbor proposes to create within its boundaries an opt-in, publicly-owned Sustainable Energy Utility (“SEU”) to (i) supply, generate, transmit, distribute, and store electricity, heat, cooling, light, and power (all from renewable sources); and (ii) provide energy-related services. The SEU could, for example, provide individual or networked rooftop solar panels, heat pumps, geothermal systems, or batteries to customers to supplement existing utility services. The SEU will be fee-based. This proposal does not authorize new taxes.

Shall the Charter be amended to authorize the City to establish, construct, own, and operate an opt-in Sustainable Energy Utility?

Yes No

RESOLVED, That the proposed Charter amendment and proposed ballot question be published in full in the Washtenaw County Legal News and on the City’s website; and

RESOLVED, That if the amendment is adopted, it shall take effect on January 1, 2025.

Sponsored by: Mayor Taylor and Councilmembers Radina, Briggs, and Disch

At a regular session of the Ann Arbor City Council held on May 6, 2024, the foregoing resolution was moved by Councilmember Radina, seconded by Councilmember Disch, that this Resolution R-24-154 be approved.

The vote was as follows:

AYES: Councilmembers Briggs, Disch, Song, Eyer, Radina, Harrison, Ghazi Edwin, Watson, Akmon, Cornell, Mayor Taylor, 11;

NAYS: 0;

ABSENT: 0.

The resolution was declared adopted.

I hereby certify that the foregoing resolution was adopted by the Council of the City of Ann Arbor, Michigan, at its Regular Session of May 6, 2024.

Jacqueline Beaudry, Ann Arbor City Clerk

Date Certified

Enclosure 2

AG's copy of the Clerk's package to the
Governor with signed resolution



City Clerk

CITY OF ANN ARBOR, MICHIGAN
301 E. Huron Street, P.O. Box 8647 | Ann Arbor, Michigan 48107-8647
(p) 734.794.6140 | (f) 734.994.8296
cityclerk@a2gov.org | www.a2gov.org

May 16, 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

Attorney General

MAY 20 2024

State Operations

Dear Governor Whitmer:

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The proposed charter language is included in the enclosed certified resolution, adopted by the Ann Arbor City Council at its regular session of May 6, 2024. The resolution authorizes the charter amendment proposition to appear 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



City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Certified Copy

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File Number: 24-0825

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Whereas, Ann Arbor City Council unanimously adopted the A2ZERO Carbon Neutrality Plan in June of 2020 as a means to achieve that carbon neutrality goal;

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Whereas, A key recommendation in the 5 Lakes Energy Technical Report was to pursue a Sustainable Energy Utility ("SEU") to accelerate renewable energy in the City and provide resilience within the City of Ann Arbor;

Whereas, Following the work session City Staff received the consultants' models late in 2023 and undertook significant work to validate and re-calibrate the models, as needed, to ensure their applicability to the Michigan context, especially considering the new clean energy laws that were enacted;

Whereas, Based on all these combined efforts and Council's direction, City Staff provided a report to Council in February of 2024 summarizing recommendations related to electricity-related energy options to achieve the City's A2ZERO goal;

Whereas, In the February 2024 report, City Staff recommended that the City invest in three core actions to advance progress toward A2ZERO's 100% renewable electricity goal, the first of which was to "put the formation of a Sustainable Energy Utility to a vote of the people;"

Whereas, City Council finds the recommendation regarding an SEU to be a key step toward achieving the A2ZERO goal while increasing resilience, lowering energy costs for participants, and giving citizens more choices and power over their energy options; and

Whereas, November 5, 2024 is the next regular election;

RESOLVED, That the Ann Arbor City Council proposes that the City Charter be amended by adding Section 15.10 to read as follows:

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RESOLVED, That the Clerk shall transmit a copy of the proposed amendment to the Governor and Attorney General of Michigan and perform all other acts required by law for holding the election;

RESOLVED, That the proposed Charter amendment shall appear on the ballot in the following form:

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Shall the Charter be amended to authorize the City to establish, construct, own, and operate an opt-in Sustainable Energy Utility?

Yes No

RESOLVED, That the proposed Charter amendment and proposed ballot question be published in full in the Washtenaw County Legal News and on the City's website; and

RESOLVED, That if the amendment is adopted, it shall take effect on January 1, 2025.

Sponsored by: Mayor Taylor and Councilmembers Radina, Briggs, and Disch

At a regular session of the Ann Arbor City Council held on May 6, 2024, the foregoing resolution was moved by Councilmember Radina, seconded by Councilmember Disch, that this Resolution R-24-154 be approved.

The vote was as follows:

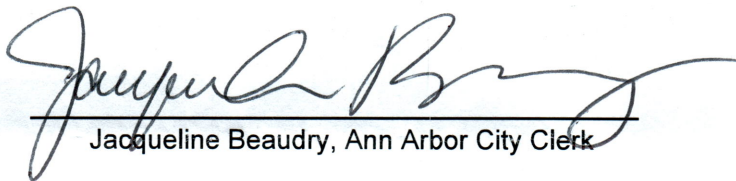
AYES: Councilmembers Briggs, Disch, Song, Eyer, Radina, Harrison, Ghazi Edwin, Watson, Akmon, Cornell, Mayor Taylor, 11;

NAYS: 0;

ABSENT: 0.

The resolution was declared adopted.

I hereby certify that the foregoing resolution was adopted by the Council of the City of Ann Arbor, Michigan, at its Regular Session of May 6, 2024.


Jacqueline Beaudry, Ann Arbor City Clerk

5/14/2024
Date Certified





City Clerk
Post Office Box 8647
Ann Arbor, Michigan 48107-8647



CERTIFIED MAIL



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**MI Department of Attorney General
ATTN: State Operations Division
P.O. Box 30754
Lansing, MI 48909-8254**

Attorney General

MAY 20 2024

State Operations

48909-825454

