

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30754
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

August 10, 2021

By email only

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

Attention: Mark Totten
Legal Counsel to the Governor

Re: City of Ann Arbor – Additional Proposed Charter Amendments

Section 14.2 – provides that the City Council may delegate to the city administrator the authority to approve purchases and to enter into contracts when the cost to the city is equal to or lesser than \$75,000, to be adjustable for inflation

Section 14.2 – adds a subsection (b) which states that “[t]he Council shall by ordinance establish the procedure for contracts for emergency purchases, which shall be authorized under the direction of the City Administrator.”

Dear Governor Whitmer:

You have referred to this office the referenced and attached additional charter amendments adopted by resolutions of the Ann Arbor city council at its meeting held on August 2, 2021.¹

I have reviewed the proposed amendments 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 the HRCA.

¹A third resolution adopted by the city council at that meeting providing for rank choice voting is still under review and will be the subject of a separate letter of review.

Honorable Gretchen Whitmer
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City of Ann Arbor
August 10, 2021

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 resolution 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:bb
Enc.

cc: Jacqueline Beaudry, City Clerk, by email only: JBeaudry@a2gov.org
Matthew Thomas, Assistant City Attorney, by email only: MThomas@a2gov.org
Kristina Gierhart, Executive Assistant, Governor's Office, by email only

2021-0324916-A



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

August 6, 2021

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

RE: Proposed Charter Amendments – 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 the Ann Arbor City Clerk 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 6, 2021

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

Re: Proposed Charter Amendments – City of Ann Arbor

Dear Ms. Beaudry,

On behalf of Governor Whitmer I am responding to your email and attached letter dated August 6, 2021. 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 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 St., P.O. Box 8647, Ann Arbor, Michigan 48107-8647

Phone (734)794-6140 Fax (734)994-8296

www.a2gov.org

August 6, 2021

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 the proposed amendments to the Ann Arbor City Charter are being submitted for your approval. The proposed charter amendments would be as follows:

1. Modifies Sections 13.4 and 13.5 of the City Charter to allow for Ranked Choice Voting.
2. Adds a new subsection to Section 14.2 of the City Charter, related to emergency purchasing procedures.
3. Amends Section 14.2 of the City Charter, related to the \$25,000 dollar limit.

The proposed charter language is included in the enclosed certified resolutions, adopted by the Ann Arbor City Council at its regular session of August 2, 2021. The resolutions authorize the charter amendment propositions to appear on the November 2, 2021 Special Election Ballot.

Sincerely,

Jacqueline Beaudry
City Clerk

JB/rw

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

Ballot Letter.



City of Ann Arbor

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

Certified Copy

Resolution: R-21-300

File Number: 21-1409

Enactment Number: R-21-300

Resolution to Order Election and to Determine Ballot Question for Charter Amendment to Allow for Ranked Choice Voting (**7 Votes Required**)

Whereas, Ranked Choice Voting enhances the democratic process by allowing for more choice for voters, providing more information about voter preferences, representing a broader spectrum of views, and promoting majority support;

Whereas, Legislation has previously been introduced in the State House of Representatives that would allow the City to provide by Charter that City Officers be elected by Ranked Choice Voting; and

Whereas, It would be beneficial to have the enabling Charter language in place should the legislation pass, so that the City can proceed with Ranked Choice Voting immediately, without the possible expense of calling a special election.

RESOLVED, That the Ann Arbor City Council proposes that the City Charter be amended by modifying Section 13.4 and 13.5 to read as follows:

Primary Elections

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 candidates receiving the highest number of votes of their respective parties at any city primary election shall be declared the~~ 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.

(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.

Election Procedure

SECTION 13.5.

(a) Except as otherwise provided herein, the general election laws of the State shall

control, as nearly as may be, all procedures relating to registration for and to the calling and conduct of City elections.

(b) In the event State law allows for the use of Ranked Choice Voting for the election of City Officers, the candidate receiving the majority of votes shall be declared the winner according to the following guidelines:

(1) The ballot shall allow voters to rank a number of choices in order of preference equal to the total number of candidates for each office.

(2) If a candidate receives a majority of the first choices, that candidate must be declared the winner. Subject to subsections (3) and (4), if no candidate receives a majority of the votes, the candidate, or candidates, who received the fewest number of first choices must be eliminated and each vote cast for that candidate must be transferred to the next ranked continuing candidate on the elector's ballot. Except as provided in subsection (5), this process will continue until a candidate receives a majority of votes.

(3) If the total number of votes of the 2 or more candidates credited with the lowest number of votes is less than the number of votes credited to the candidate with the next highest number of votes, those candidates with the lowest number of votes must be eliminated simultaneously and their votes transferred to the next ranked continuing candidate of each ballot in a single counting operation.

(4) If an elector skips a rank, the elector's vote must be transferred to the elector's next ranked choice.

(5) If after the ranked choice voting process described in subsection (2) is complete and there is a tie of 2 or more candidates, the tie must be resolved as provided by State law.

(6) If the voting system, vote tabulation system or similar or related equipment used by the City cannot feasibly accommodate choices equal to the total number of candidates running for each office, the Clerk shall limit the number of choices a voter may rank to no fewer than three.

(c) In the event State law allows for the use of the Ranked Choice Voting guidelines found in Section 13.5(b) for the election of City Officers, and until such time as voting machine equipment capable of implementing Ranked Choice Voting is available and obtained by the City of Ann Arbor, and such equipment is approved by the Election Commission, the candidate with the highest number of votes in their respective race shall be elected or nominated.

RESOLVED, That November 2, 2021 is designated as the day for holding an election on the proposed Charter amendment;

RESOLVED, That the City Clerk shall transmit a copy of this resolution to the Attorney General and the Governor of Michigan and shall 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
RANKED CHOICE VOTING FOR THE ELECTION OF CITY OFFICERS

Shall the Charter be amended to provide that the Mayor and City Council members are to be nominated and elected by a Ranked Choice Voting method when it is authorized by State Law?

Yes No

RESOLVED, That the proposed Charter amendment and proposed ballot question shall be published in full in the Washtenaw County Legal News;

RESOLVED, That the City Clerk is directed to publish the proposed Charter amendment in full, together with the existing Charter provisions amended as required by law and in accordance with resolution of Council, and to post the proposed Charter amendment in full together with the existing Charter provisions to the City’s website; and

RESOLVED, That if the amendment is adopted, it shall take effect on January 1, 2022.

Sponsored by: Councilmembers Disch, Grand and Eyer

At a regular session of the Ann Arbor City Council held on August 2, 2021, the foregoing resolution was moved by Councilmember Disch, seconded by Councilmember Grand, that this Resolution R-21-300 be approved.

The vote was as follows:

AYES: Councilmembers Grand, Griswold, Nelson, Ramlawi, Briggs, Disch, Song, Eyer, Radina and Mayor Taylor, 10;

NAYS: Councilmember Hayner, 1;

ABSENT: 0.

The resolution was declared adopted.

I, Jacqueline Beaudry, Clerk of the City of Ann Arbor, Michigan, certify that this is a true copy of Resolution R-21-300, passed by the Ann Arbor City Council on 8/2/2021.



Attest: Jacqueline Beaudry
Jacqueline Beaudry, Ann Arbor City Clerk

August 06, 2021
Date Certified



City of Ann Arbor

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

Certified Copy

Resolution: R-21-301

File Number: 21-1321

Enactment Number: R-21-301

Resolution to Order Election and to Determine Ballot Question for Amendment to Section 14.2 of the City Charter Related to Emergency Purchases **(7 Votes Required)**

Whereas, Section 14.1 of the City Charter, entitled "Authority of Council," subsection b provides:

All contracts, except as otherwise provided in this charter or by ordinance of the Council in accordance with the provisions of Section 14.2 of this charter, shall be approved by the Council and shall be signed on behalf of the City by the Mayor and the Clerk;

Whereas, Section 14.2 of the City Charter, entitled "Purchase and Sale of Personal Property," provides:

The Council shall by ordinance establish the procedures for contracts for all services and for the purchase and sale of personal property under the direction of the City Administrator. The ordinance shall provide the dollar limit within which purchases of personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases may be made and contracts for services entered into without the necessity of council approval. Such dollar limits shall, in no case, exceed twenty-five thousand dollars (\$25,000.00). No purchase shall be made or service contract entered into unless a sufficient appropriation is available;

Whereas, Unforeseen events sometimes arise that require the City Administrator to enter into contracts in order to continue provision of essential City services, without otherwise complying with those requirements of Chapter 14 of the City Charter, such as obtaining prior Council approval and securing competitive bidding; and

Whereas, Section 1:317 of Chapter 14 of the City Code provides a method for emergency procurement of supplies, materials, equipment, professional services, and construction services, but there is no corresponding provision in the City's Charter that expressly addresses emergency procurement;

RESOLVED, That the following amendment adding a subsection (b) to Section 14.2 of the City Charter be placed on the ballot and submitted to the voters at the next general city election:

(b) The Council shall by ordinance establish the procedure for contracts for emergency purchases, which shall be authorized under the direction of the City Administrator.

RESOLVED, That November 2, 2021 is designated as the day for holding an election on the proposed Charter amendment;

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

RESOLVED, That the following question shall appear on the ballot in the following form:

ANN ARBOR CITY CHARTER AMENDMENT RELATED TO EMERGENCY PROCUREMENT

Shall Section 14.2 of the Charter be amended to require City Council to establish, by ordinance, the procedure by which the City Administrator may make emergency purchases.

Yes No

RESOLVED, That the proposed Charter amendment and proposed ballot question shall be published in full in the Washtenaw County Legal News;

RESOLVED, That the City Clerk is directed to publish the proposed Charter amendment in full, together with the existing Charter provisions amended as required by law and in accordance with resolution of Council, and to post the proposed Charter amendment in full together with the existing Charter provisions to the City’s website; and

RESOLVED, That if the amendment is adopted, it shall take effect immediately.

Sponsored by: Councilmember Eyer, Councilmember Radina and Mayor Taylor

At a regular session of the Ann Arbor City Council held on August 2, 2021, the foregoing resolution was moved by Councilmember Radina, seconded by Councilmember Grand, that this Resolution R-21-301 be approved.

The vote was as follows:

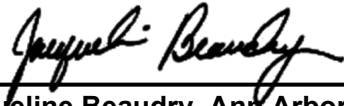
AYES: Councilmembers Grand, Griswold, Nelson, Briggs, Disch, Song, Eyer, Radina, and Mayor Taylor, 9;

NAYS: Councilmembers Hayner and Ramlawi, 2;

ABSENT: 0.

The resolution was declared adopted.

I, Jacqueline Beaudry, Clerk of the City of Ann Arbor, Michigan, certify that this is a true copy of Resolution R-21-301, passed by the Ann Arbor City Council on 8/2/2021.

Attest: 
Jacqueline Beaudry, Ann Arbor City Clerk

August 06, 2021
Date Certified





City of Ann Arbor

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

Certified Copy

Resolution: R-21-302

File Number: 21-1322

Enactment Number: R-21-302

Resolution to Order Election and to Determine Ballot Question for Amendment to Section 14.2 of the City Charter Related to the \$25,000 Dollar Limit **(7 Votes Required)**

Whereas, Section 14.1 of the City Charter, entitled "Authority of Council," subsection b provides:

All contracts, except as otherwise provided in this charter or by ordinance of the Council in accordance with the provisions of Section 14.2 of this charter, shall be approved by the Council and shall be signed on behalf of the City by the Mayor and the Clerk;

Whereas, Section 14.2 of the City Charter, entitled "Purchase and Sale of Personal Property," provides:

The Council shall by ordinance establish the procedures for contracts for all services and for the purchase and sale of personal property under the direction of the City Administrator. The ordinance shall provide the dollar limit within which purchases of personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases may be made and contracts for services entered into without the necessity of council approval. Such dollar limits shall, in no case, exceed twenty-five thousand dollars (\$25,000.00). No purchase shall be made or service contract entered into unless a sufficient appropriation is available;

Whereas, The \$25,000 dollar-limit exception has not been altered to account for inflation or otherwise since 1995, even though the cumulative rate of inflation since that time is over 75%;

Whereas, Staff estimates that changing the dollar-limit to \$75,000 would result in Council seeing 48% fewer items, where such items account for merely 4% of the total value of all contracts that the City enters into in a year;

Whereas, Staff further estimates that such change would result in the City realizing a savings of nearly 625 fewer staff hours expended on processing resolutions for contract approvals; and

Whereas, Increasing the dollar limit to \$75,000 and allowing the City Council to adjust such amount in the future to account for inflation is in the City's best interest.

RESOLVED, That the following amendment to Section 14.2 of the City Charter be placed on the ballot and submitted to the voters at the next general city election:

(a) The Council shall by ordinance establish the procedures for contracts for all

services and for the purchase and sale of personal property, under the direction of the City Administrator. The ordinance shall provide the dollar limit within which purchases of personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases may be made and contracts for services entered into, without the necessity of ~~e~~Council approval. ~~Such dollar limits shall, in no case, exceed twenty five thousand dollars (\$25,000.00)~~ The dollar limit within which purchases may be made and contracts for services entered into, without the necessity of Council approval shall, in no case, exceed \$75,000.00 (which City Council may by ordinance increase to account for inflation). The dollar limit within which purchases of personal property may be made without the necessity of securing competitive bids shall, in no case, exceed \$25,000. No purchase shall be made or service contract entered into unless a sufficient appropriation is available.

RESOLVED, That November 2, 2021 is designated as the day for holding an election on the proposed Charter amendment;

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

RESOLVED, That the following question shall appear on the ballot in the following form:

ANN ARBOR CITY CHARTER AMENDMENT RELATED TO THE \$25,000 DOLLAR LIMIT

Shall Section 14.2 of the Charter be amended to permit the City Council to delegate to the City Administrator the authority to approve purchases and to enter into contracts when the cost to the City is equal to or lesser than \$75,000, to be adjustable for inflation.

___ Yes ___ No

RESOLVED, That the proposed Charter amendment and proposed ballot question shall be published in full in the Washtenaw County Legal News;

RESOLVED, That the City Clerk is directed to publish the proposed Charter amendment in full, together with the existing Charter provisions amended as required by law and in accordance with resolution of Council, and to post the proposed Charter amendment in full together with the existing Charter provisions to the City’s website; and

RESOLVED, That if the amendment is adopted, it shall take effect on January 1, 2022.

Sponsored by: Councilmember Eyer, Councilmember Radina and Mayor Taylor

At a regular session of the Ann Arbor City Council held on August 2, 2021, the foregoing resolution was moved by Councilmember Eyer, seconded by Councilmember Disch, that this Resolution R-21-302 be approved.

The vote was as follows:

AYES: Councilmembers Grand, Griswold, Briggs, Disch, Song, Eyer, and Mayor Taylor, 7:

NAYS: Councilmembers Hayner, Nelson, Ramlawi, and Radina, 4;

ABSENT: 0.

The resolution was declared adopted.

I, Jacqueline Beaudry, Clerk of the City of Ann Arbor, Michigan, certify that this is a true copy of Resolution R-21-302, passed by the Ann Arbor City Council on 8/2/2021.

Attest: *Jacqueline Beaudry*
Jacqueline Beaudry, Ann Arbor City Clerk

August 06, 2021
Date Certified

