

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30754
LANSING, MICHIGAN 48909

BILL SCHUETTE
ATTORNEY GENERAL

RECEIVED

August 16, 2016

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CITY OF TRAVERSE CITY
CITY CLERKS OFFICE

Honorable Richard D. Snyder
Governor, State of Michigan
The George Romney Building
Lansing, MI 48909

Attention: Elizabeth Clement
Legal Counsel to the Governor

Re: **City of Traverse City – Proposed Charter Amendment by
Initiative Petition**

Chapter IV, Section 28 – adds a requirement that any proposal for a building over 60 feet in height shall not be reviewed or approved by the city commission until after the proposal is submitted to and approved by a majority of city electors at a regular or special election.

Dear Governor Snyder:

You have referred to this office for examination a proposed charter amendment by initiative petition. The Traverse City Clerk has certified that the proposed amendment was supported by petitions that contain a sufficient number of signatures of qualified and registered electors of the City of Traverse City, and on August 8, 2016, the City Commission passed a resolution to place the proposed amendment on the ballot for the November 8, 2016 election.

I have reviewed the proposed amendment in light of the Home Rule City Act (HRCA), 1909 PA 279, MCL 117.1 *et seq.* I conclude that the proposed amendment is not consistent with the requirements of Section 36 of the HRCA, which provides that a charter provision shall not conflict with or contravene state law, and here, the proposed amendment conflicts with the city's authority under the Michigan Zoning Enabling Act, MCL 125.3210 *et seq.*, to have a zoning ordinance adopted and amended by the city commission.

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The Attorney General has a separate responsibility to review proposed ballot language for compliance with the requirements of Section 21 of the HRCA which requires, *inter alia*, ballot language for a proposed charter amendment that accurately and impartially describes the proposal. I have examined the ballot language for the proposed amendment as set forth in the petition and resolution and conclude that, while it is less than 100 words, the language is not accurate in that it fails to disclose that the proposed amendment is in conflict with the Michigan Zoning Enabling Act.

It should be noted, however, that Section 22 of the HRCA requires that proposed amendments duly filed with the city clerk by initiative petition shall be submitted to the city's voters for approval, even if the Governor has declined to approve the charter amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Booth", with a long horizontal flourish extending to the right.

Joshua O. Booth
Assistant Attorney General
State Operations Division

JOB/llw

Enc.

cc: ✓ Benjamin Marentette, City Clerk
Lauren Tribble-Laucht, City Attorney