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July 29, 2021

Ms. Yvette Talley
City Clerk
City of Lathrup Village
27400 Southfield Road
Lathrup Village, MI 48076-3489

Re: Petitions of the Residents

Dear Ms. Talley:

It is my understanding that petitions were filed in the office of City Clerk of the City of Lathrup Village on July 20, 2021 titled "Petition of the Residents of Lathrup Village" in connection with cannabis business in the City of Lathrup Village. I have been asked to review the form of petition to determine if it meets the legal requirements for either an Initiative or Referendum petition under Michigan law and the City Charter.

City Charter Requirements

Section 7.10 of the City of Lathrup Village Charter provides that an ordinance, may be initiated by petition, or a referendum on an enacted ordinance may be had by petition. Section 7.11 states an initiatory petition shall set forth in full the ordinance it proposes to initiate and a referendary petition shall identify the ordinance or part thereof, or code sections it proposes to have repealed. An initiatory or a referendary petition shall be signed by not less than ten percent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the Clerk. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting. Section 7.12 states upon the presentation to the Council of an initiatory or referendary petition by the Clerk, the Council shall, within thirty days, unless otherwise provided by statute, either:

- (a) Adopt the ordinance as submitted by an initiatory petition;

- (b) Repeal the ordinance, or part thereof, referred to by a referendary petition; or
- (c) Determine to submit the proposal provided for in the petition to the electors.

Required Number of Signatures

A of the most recent election on November 3, 2020, there were 3,918 registered voters in the City of Lathrup Village, and 10% of the registered voters is 392. The petitions that were filed contained 440 signatures. On July 27, 2021 the Clerk verified the petition received contained the required number of signatures to meet the minimum number required by law.

Review of Petition Form

In reviewing the petition form, the petition form does not satisfy the legal requirements for either an initiative or a referendum petition under Michigan law based on the reasons and analysis below.

Section 517 of Act 34, which is the statute providing the requirements for a notice of intent and the referendum petition, states the *“Signatures on the petition shall be verified by a person under oath as the actual signatures of the persons whose names are signed to the petition, and the governing body of the county, city, village, or township shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25.”* MCL 141.2517.

Section 25 of the Home Rule City Act, Act 279, Public Acts of Michigan, 1909, as amended (“Act 279”), is the provision which gives the City Clerk of a city the power to review petitions to determine if it contains the requisite number of registered electors and to certify the sufficiency or insufficiency of the petition. MCL 141.2517.

Section 25a of Act 279 states that petitions under various provisions of Act 279, *“including the circulation and signing of the petition, is subject to section 488 of the Michigan Election Law, 1954 PA 116, MCL 168.488.”* MCL 117.25a.

The Michigan Election Law, Act 116, Public Acts of Michigan, 1954, as amended (“Act 116”) is the state statute that consolidates Michigan election laws and provides for the powers and duties of election officials and the regulation of elections. Section 488 of Act 116 is applicable to various initiatory and referendum petitions, and states what sections of the Michigan Election Law apply to petitions that refer to that section: *“Section 482(1),(2), (3), (4), (5), and (6) apply to a petition to place a question on the ballot before the electorate of a political subdivision under a statute that refers to this section, and to the circulation and signing of the petition.”* MCL 168.488(2).

Section 482 of Act 116, MCL 168.482, is the statute that sets forth the legal requirements for petitions, and the sections that govern the form of an initiative or referendum petition. The requirements are as follows:

168.482 Petitions; size; form; contents.

Sec. 482.

- (1) *Each petition under this section must be 8-1/2 inches by 14 inches in size. . .*
- (2) *If the measure to be submitted proposes a constitutional amendment, initiation of legislation, or referendum of legislation, the heading of each part of the petition must be prepared in the following form and printed in capital letters in 14-point boldfaced type:*

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION
OR
INITIATION OF LEGISLATION
OR
REFERENDUM OF LEGISLATION
PROPOSED BY INITIATIVE PETITION

- (3) *A summary in not more than 100 words of the purpose of the proposed amendment or question proposed must follow and be printed in 12-point type. The full text of the amendment so proposed must follow the summary and be printed in 8-point type. If the proposal would alter or abrogate an existing provision of the constitution, the petition must so state and the provisions to be altered or abrogated must be inserted, preceded by the words:*

"Provisions of existing constitution altered or abrogated by the proposal if adopted."

- (4) *The following statement must appear beneath the petition heading:*

*"We, the undersigned qualified and registered electors,
residents in the _____ congressional district in the state of Michigan,
respectively petition for (amendment to constitution) (initiation of legislation)
(referendum of legislation) (other appropriate description)."*

- (5) *The following warning must be printed in 12-point type immediately above the place for signatures, on each part of the petition:*

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.

(6) Subject to subsections (7) and (8), the remainder of the petition form must be as provided following the warning to electors signing the petition in section 544c(1). In addition, the petition must comply with the requirements of section 544c(2).

(7) Each petition under this section must provide at the top of the page check boxes and statements printed in 12-point type to clearly indicate whether the circulator of the petition is a paid signature gatherer or a volunteer signature gatherer.

(8) Each petition under this section must clearly indicate below the statement required under subsection (7) and be printed in 12-point type that if the petition circulator does not comply with all of the requirements of this act for petition circulators, any signature obtained by that petition circulator on that petition is invalid and will not be counted.

As noted in subsection (6) above, the petition form must also comply with the requirements of Section 544c(1) and 544c(2), MCL 168.544c, below the warning section, which have the following required lines for signatures, certificate of circulator and circulator warnings:

Printed Name and Signature	Street Address or Rural Route	Zip Code	Date of Signing		
			Mo.	Day	Year
1.	<hr/>				
2.	<hr/>				
3.	<hr/>				
4.	<hr/>				
5.	<hr/>				

numbered lines as above

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.

Circulator—Do not sign or date certificate until after circulating petition.

_____ If the circulator is not a resident of Michigan, the circulator shall make a cross or check mark on the line 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 on the line 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.

(Printed Name and Signature of Circulator) (Date)

(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)

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 circulator is guilty of a misdemeanor.

(2) *The petition must be in a form providing a space for the circulator and each elector who signs the petition to print his or her name. The secretary of state shall prescribe the location of the space for the printed name. The failure of the circulator or an elector who signs the petition to print his or her name, to print his or her name in the location prescribed by the secretary of state, or to enter a zip code or his or her correct zip code does not affect the validity of the signature of the circulator or the elector who signs the petition. A printed name located in the space prescribed for printed names does not constitute the signature of the circulator or elector. If an elector does not include his or her signature, his or her street address or rural route, or the date of signing on the petition as required under subsection (1), the elector's signature is invalid and must not be counted by a filing official.*

The petition form that was submitted is very basic with an introduction requesting the proposed cannabis ordinance be put before the voters for a vote, with lines for the signature, date and address of the resident, followed by a few lines with the name, signature and address of the canvasser.

The petition form that was submitted meets very few of the many legal requirements that are required of either an initiative or a referendum petition, and is deficient for the following reasons:

- The petition does not set forth in full the ordinance it proposes to initiate nor does it identify the ordinance or part thereof, or code sections it proposes to have repealed required by City Charter Section 7.11;
- The petition does not identify the petition type as required by MCL 168.482(2);
- The petition does not contain a summary, in not more than 100 words, of the purpose of the proposed amendment or question proposed, nor does it contain the full text of the amendment proposed as required by MCL 168.482(3);
- The petition does not contain the statement below the heading required by MCL 168.482(4);
- The petition does not contain the warning to signers required by MCL 168.482(5);
- The petition does not contain the required lines or information required for the signatures required by MCL 168.544c(1);
- The petition does not contain the Certificate of Circulator required by MCL 168.544c(1);
- The petition does not contain the information required from Circulators required by MCL 168.544c(1).

Conclusion

Therefore, based on the above, the form of the petition does not meet the requirements of Michigan law for a, initiative or referendum petition under Act 34, Act 279 and Act 116 and no additional action is required with respect to the petition.

Very truly yours,

BAKER & ELOWSKY, PLLC

A handwritten signature in black ink, appearing to read "S. Baker", with a stylized flourish at the end.

Scott R. Baker