

McTigue & Colombo LLC

ATTORNEYS AT LAW

DONALD J. MCTIGUE, OF COUNSEL
J. COREY COLOMBO
PATRICIA L. ROEDERER
STACEY N. HAUFF
HELEN G. LOHRE

545 EAST TOWN STREET
COLUMBUS, OHIO 43215

(614) 263-7000 | WWW.ELECTIONLAWGROUP.COM

October 14, 2026

VIA E-MAIL

John Byrnes
Treasurer, Our City Our Vote
PO Box 62
Worthington, OH 43085

***Re: City of Worthington, Councilmembers and Charter Review Commission
Chairperson statements regarding the effect of Issue 38***

Dear John,

You requested our opinion in response to several communications and comments made by the City of Worthington and its representatives such as Councilmembers and the Charter Review Commission Chairperson (“City of Worthington”) regarding Issue 38. Specifically, the claim is being made that Issue 38 would “expand the types of Council actions that are submitted to referendum” because of the terminology “any ordinance or other measure.” These statements have appeared in such publications as the taxpayer funded Village Talks newsletter, during City Council meetings, and in the Worthington Spotlight. We strongly disagree with these false statements for the reasons stated herein.

Referendums regarding “any ordinance and other measure” is already the law of the City of Worthington. This phrase “any ordinance or other measure” is used in Ohio Revised Code 731.29 for municipal referendums and in countless municipal charters across Ohio, including in the Worthington Charter itself for over a decade. It has a distinct legal meaning that is clear and unambiguous to anyone who is familiar with referendums and is intended to include all possible actions of a Council that could be subject to referendum under Ohio law.

The City of Worthington points to the phrase “any ordinance or other measure” in Issue 38 to falsely claim that any and all Council action would be subject to referendum. The only effect of Issue 38 would be to lower the signature requirement for referendum petitions and would not expand the types of Council actions that are subject to referendum. Despite this, the City of Worthington has used its public platform to spread falsehoods about Issue 38 in taxpayer funded publications and on its website. The statements potentially are being made to put the “thumb on the scale” of the issue, but regardless, the misinformation could easily confuse, deceive and mislead Worthington voters, and it is irresponsible at best to allow City resources to be used to do so.

1. City of Worthington Charter Section 1.03 already adopted the Ohio Revised Code procedure on municipal referendum. This Section states, “Except as limited by this Charter and the laws of the State of Ohio, the powers of initiative and referendum on all matters

upon which the Council is competent to legislate are reserved to the people to be exercised in the manner provided by the laws of the State of Ohio.” Turning to the state law, R.C. 731.29 states: “**Any ordinance or other measure** passed by the legislative authority of a municipal corporation shall be subject to the referendum except as provided by section 731.30 of the Revised Code.” R.C. 731.30 states that a referendum petition may not be filed against subsequent measures providing for public improvement, appropriations for current expenses, certain street improvements, and emergency measures. Due to Worthington Charter Section 1.03, both the referendum procedure R.C. 731.29 and the referendum limitations in R.C. 731.30 control in Worthington, and Issue 38 reinforces that.

2. The City of Worthington, like all Ohio municipalities, is subject to Ohio Constitution Article 2, Section 1f, which states that "The initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized by law to control by legislative action; such powers shall be exercised in the manner now or hereafter provided by law." Under this constitutional provision, it has been well established by the Ohio Supreme Court that referendums against administrative actions by a city council are prohibited. A municipal charter does not have the power to override the Ohio Constitution and the rulings of the Ohio Supreme Court.
3. Section 1.04 of the Worthington Charter, pertaining to zoning-related referendums, was initiated over decade ago and states: “Notwithstanding any other provision of this Charter, the power of referendum on **any ordinance or other measure** passed by the Council amending the City’s zoning code or changing the zoning for any property in the City may be exercised in the manner provided by the laws of the State of Ohio...” This language has never resulted in the type of ungovernability and chaos that the City of Worthington and its representatives are claiming that Issue 38 would cause.
4. The Ohio Supreme Court stated just this year that “To hold a referendum on **any ordinance or other measure, such as a resolution**, passed by the legislative authority of a village, the proponents of the referendum must, within 30 days of the passage of the measure, submit a petition to the village clerk signed by at least 35 percent of the number of electors in the village who voted for governor in the last general election. R.C. 731.29.” *State ex rel. McNamara-Smith v. Grube*, 2026-Ohio-3035, P20. This quote shows the meaning of “other measure” is to encompass all types of legislative action that a Council could take so as to not circumvent the referendum process if Council approves legislation by resolution or motion. The “other measure” terminology does not subject all actions to referendum. The same case also later states the fact that “[e]mergency ordinances or measures are not subject to referendum... citing R.C. 731.29 and 731.30.” *Id.* at P22. This case demonstrates the common and accepted understanding of the meaning and limitations of the phrase “other measure.” The City of Worthington is promoting an alternate and unsupported interpretation of “other measure.”
5. Countless municipal charters in Ohio use the exact language in Worthington Charter Section 1.04, Issue 38, and R.C. 731.29 to ensure that all actions of the municipal council that could be subject to referendum under Ohio law are permitted. See attached Appendix for a sampling of these municipal charter provisions.

6. It is improper for a municipality to expend public resources to support or oppose charter amendments. When educating the public regarding upcoming charter amendments, public funds should only be used to communicate facts to the public. The statement on the City's website and other places that Issue 38 "expands the types of Council actions that are subject to referendum" is false and should be removed.

Please share this opinion letter as necessary to the City of Worthington, City Council, Charter Review Commission and the general public to correct the misinformation that is being provided by the City of Worthington regarding the effect of Issue 38.

Respectfully,

A handwritten signature in blue ink that reads "J. Corey Colombo". The signature is written in a cursive style with a large, stylized "J" and a long horizontal stroke at the end.

J. Corey Colombo

APPENDIX

Worthington Charter Section 1.03

Except as limited by this Charter and the laws of the State of Ohio, the powers of initiative and referendum **on all matters upon which the Council is competent to legislate** are reserved to the people **to be exercised in the manner provided by the laws of the State of Ohio.**

Worthington Charter Section 1.04

(A) Notwithstanding any other provision of this Charter, the power of referendum on **any ordinance or other measure** passed by the Council amending the City's zoning code or changing the zoning for any property in the City may be exercised in the manner provided by the laws of the State of Ohio except that the petition may be filed upon passage of any ordinance or other measure by Council and within sixty (60) days following publication in order to afford an opportunity during the period for the filing of referendum petitions thereon.

(B) Notwithstanding any other provision of this Charter, no ordinance or other measure passed by the Council amending the City's zoning code or changing zoning for any property in the City shall go into effect until sixty (60) days following publication in order to afford an opportunity during that period for the filing of referendum petitions thereon; nor shall any such ordinance or measure be passed on an emergency basis.

Issue 38

Notwithstanding any other provisions of this Charter, the power of referendum on **any ordinance or other measure** passed by the Council **may be exercised in the manner provided by the laws of the State of Ohio** except that the petition signature requirement shall be ten percent of the electors of the City, based upon the total vote cast at the last preceding general municipal election.

SAMPLING OF MUNICIPAL CHARTER SECTIONS:

New Franklin Charter Section 10.02

"The electors of the Municipality shall have the power to approve or reject at the polls **any ordinance or other measure** enacted by Council in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect."

Maumee Charter Section 2

"The electors of this Municipality shall have the same right and power to approve or reject **any ordinance or other measure** passed by the Council as is now or may be hereafter provided by the Constitution and laws of Ohio."

Steubenville Charter Section 2

"**Ordinances and other measures** adopted by Council shall be subject to referendum to the extent and in the manner now or hereafter provided by the Constitution or the Laws of Ohio."

Brooklyn Heights Charter Section 8.02(a)

"**Any ordinance or other measure** passed by the Village Council shall be subject to the referendum rights of voters of the Village."

Defiance Charter Section 5.02

"The electors of this City shall have the same right and power to approve or reject **any ordinance or other measure** passed by the Council as is now or may be hereafter provided by the Constitution and laws of Ohio."

Northwood Charter Section 12.02

"The electors of this Municipality shall have the same right and power to approve or reject **any ordinance or other measure** passed by the Council as is now or may be hereafter provided by the Constitution and laws of Ohio."

Norton Charter Section 9.02

"The electors of the Municipality shall have the power to approve or reject at the polls **any ordinance or other measure** enacted by Council in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect."

Bowling Green Charter Section 4.02

"The electors of this municipality shall have the same right and power to approve or reject **any ordinance or other measure** passed by the council as is now or may be hereafter provided by the constitution and laws of Ohio"

Barberton Charter Section 8.02

"**Ordinances and other measures** adopted by Council shall be subject to referendum, to the extent and in the manner now or hereafter provided by the Constitution or the laws of the State of Ohio.

Campbell Charter Section 7.02

"The electors of the municipality shall have the power to approve or reject at the polls **any ordinance or other measure** enacted by Council in accordance with the provisions of the Constitution and laws of the State of Ohio now or hereafter in effect."

Geneva Charter Section 21

"Ordinances and other measures may be proposed by initiated petition and adopted by election and **ordinances and other measures** adopted by Council shall be subject to referendum to the extent and in the manner now or hereafter provided by the Constitution and laws of Ohio"

Lyndhurst Charter Section 1

"Ordinances and other measures may be proposed by initiative petition and adopted by election, and **ordinances and other measures** adopted by the Council shall be subject to referendum, to the extent and in the manner now or hereafter provided by the Constitution or the laws of Ohio."

Eastlake Charter Section III-1

"Ordinances and other measures may be proposed by initiative petition and adopted by election, and **ordinances and other measures** adopted by the Council shall be subject to referendum, to the extent and in the manner now or hereafter provided by this Charter or the laws of Ohio."