
Legal Memorandum

To: Bloomington Plan Commission

From: Dana Robert Kerr, Assistant City Attorney

Re: Common Council Requested UDO Amendment Requiring All Electric for PUDs

Date: August 7, 2026

Question: Can the UDO require PUDs to be all electric or have onsite renewable energy resources? **Short Answer:** No.

Discussion:

What is the proposed change to the Unified Development Ordinance (UDO)?

The change to the UDO would require any new Planned Unit Development (PUD) to be totally electric or have onsite renewable energy resources. Specifically, the proposed change states:

Electrification- Developments shall only be served by electricity or on-site renewable energy sources for all significant energy needs, including for space heating, water heating, and non-commercial cooking. The Plan Commission may consider proposed exceptions for specific uses based on best practices in all-electric building codes.

What is the controlling statute?

Indiana Code (IC) 8-1-2-101.2 states:

- (b) A municipal council or county executive does not have the power to enact any code, ordinance, or land use regulation that would prohibit or have the effect of prohibiting, or to otherwise regulate in a manner that would prohibit or have the effect of prohibiting:
 - (1) a liquid petroleum gas company, a public utility, or a department of public utilities from furnishing utility service to a utility customer; or
 - (2) a customer of a liquid petroleum gas company, a public utility, or a department of public utilities from:
 - (A) purchasing;
 - (B) using; or
 - (C) connecting or reconnecting to;

a utility service;
based on the energy source of the utility service.

How does this statute apply?

The UDO, Unified Development Ordinance, is by its very name an ordinance, passed by a municipal council, the Bloomington Common Council. The proposed amendment, an ordinance, would prohibit or have the effect of prohibiting any public energy source utility from supplying customers within a PUD, a zoning district established by ordinance, anything other than electricity. For instance this would prohibit a natural gas utility from supplying customers within the PUD their natural gas product and would prevent customers within the PUD from connecting to the natural gas utility. This would create large areas (PUDs must be five acres or more) of the City of Bloomington where energy source utilities, such as natural gas, would be prohibited from serving, and customers prohibited from buying, based on what energy source the utility provides.

The proposed ordinance amendment does mention air and water heating as being included, but only non-commercial cooking. So, it could be argued that those with commercial cooking operations could connect to a utility such as natural gas, yet this still excludes the vast majority of uses of properties to which the utility could not serve and the customer could not buy.

Legal Conclusion

A proposed UDO Amendment requiring PUDs to be served only with electricity or onsite renewable energy sources is ***contrary to State Law*** and would be invalid, void, and unenforceable.