

OFFICE OF THE ATTORNEY GENERAL OF TEXAS

Untitled Texas Attorney General Opinion: KP-0521

Tex. Att'y Gen. Op. No. KP-0521 · No. KP-0521 · Decided June 26, 2026

SUMMARY

Texas Attorney General Opinion No. KP-0521 addresses whether section 8.4.5 of the City of Austin's Energy Code conflicts with Texas Utilities Code section 181.903(b). The opinion concludes that the provision's electric-ready requirements indirectly discriminate against natural gas utility services based on the type or source of energy and is therefore unenforceable to that extent.

CASE DETAILS

COURT	Office of the Attorney General of Texas
DECIDED	June 26, 2026
DOCKET	KP-0521
DISPOSITION	other
PROCEDURAL POSTURE	The Texas Attorney General issued an opinion in response to a request from the Chair of the Texas Senate Committee on Natural Resources concerning whether the City of Austin's proposed Energy Code conflicts with Texas Utilities Code section 181.903(b).
STANDARD OF REVIEW	Statutory interpretation based on legislative intent, statutory text, context, and the ordinary meaning of undefined terms.
PRECEDENTIAL VALUE	Published Texas Attorney General opinion; persuasive authority rather than a judicial opinion.

TOPICS

[public utilities](#) [home rule](#) [municipal law](#) [ordinances](#) [statutory interpretation](#)

PRACTICE AREAS

[municipal law](#) [public utilities](#) [constitutional law](#) [statutory interpretation](#) [home rule](#)

QUESTIONS PRESENTED

- Whether Texas Utilities Code section 181.903(b) prohibits the City of Austin from adopting or enforcing an energy code that requires electric-ready infrastructure in buildings using natural-gas equipment.

2. Whether Austin Energy Code section 8.4.5 has the purpose, intent, or effect of directly or indirectly discriminating against natural-gas utility services based on the type or source of energy.

HOLDINGS

1. Section 181.903(b) prohibits a political subdivision, including the City of Austin, from adopting or enforcing a code that has the purpose, intent, or effect of directly or indirectly discriminating against a utility service based on the type or source of energy.
2. Austin Energy Code section 8.4.5 has the purpose, intent, or effect of directly or indirectly discriminating against natural-gas utility services based on the type or source of energy and is therefore unenforceable.
3. For purposes of section 181.903(b), discriminating against a utility service includes differential treatment based on the type or source of energy, including discriminatory effects that are direct or indirect.

KEY QUOTATIONS

“We therefore conclude that the Utility Code’s broad prohibition renders section 8.4.5 of the City’s ordinance unenforceable.” (p. 4)

“Subsection 181.903(b) of the Utilities Code prohibits the City of Austin from adopting or enforcing a code that has “the purpose, intent, or effect of directly or indirectly . . . discriminating against” a utility service based on the type or source of energy.” (Summary)

FACTUAL BACKGROUND

Austin's Energy Code section 8.4.5 requires buildings containing fossil-fuel combustion equipment for space heating, water heating, cooking, or clothes drying to install infrastructure for corresponding electric equipment. The requested opinion asserted that these requirements discriminate against natural-gas utility services based on the type or source of energy. The Attorney General determined that mandating electric-ready infrastructure has the purpose, intent, or effect of discriminating against natural-gas utility services.

PROCEDURAL HISTORY

Senator Kevin Sparks requested an opinion regarding the legality of section 8.4.5 of the City of Austin's Energy Code. The Attorney General concluded that the provision conflicts with Texas Utilities Code section 181.903(b) and is unenforceable.

DISPOSITION

other

CASES CITED

- Quick v. City of Austin, 7 S.W.3d 109, 122 (Tex. 1998)
- City of Richardson v. Oncor Elec. Delivery Co., 539 S.W.3d 252, 261–62 (Tex. 2018)

- *City of Houston v. Bates*, 406 S.W.3d 539, 546 (Tex. 2013)
- *Dall. Merch.'s & Concessionaire's Ass'n v. City of Dallas*, 852 S.W.2d 489, 490–91 (Tex. 1993)
- *Marks v. St. Luke's Episcopal Hosp.*, 319 S.W.3d 658, 678 (Tex. 2010)
- *City of Rockwall v. Hughes*, 246 S.W.3d 621, 625 (Tex. 2008)
- *Am. Pearl Grp., L.L.C. v. Nat'l Payment Sys., L.L.C.*, 715 S.W.3d 383, 387 (Tex. 2025)
- *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011)
- *Tex. Dep't of Crim. Just. v. Rangel*, 595 S.W.3d 198, 208 (Tex. 2020)
- *Fort Worth Transp. Auth. v. Rodriguez*, 547 S.W.3d 830, 838 (Tex. 2018)
- *State v. City of Houston*, No. 03-23-00531-CV, 2025 WL 2014935, at *8 (Tex. App.—Austin July 18, 2025, pet. filed)
- *State v. City of Houston*, No. 03-23-00531-CV, 2026 WL 1343571 (Tex. App.—Austin May 14, 2026, no pet. h.)