MEMORANDUM

TO:	Indiana counsel evaluating a challenge to City of Bloomington Ordinance 2026-29
FROM:	Chris Dukes, Praxen Policy
DATE:	November 7, 2026
RE:	Validity of Bloomington Municipal Code Chapter 14.25 (“Prohibition of Superintelligence”) under the Indiana Home Rule Act, the Indiana Constitution, and the United States Constitution

This memorandum is research work product prepared for review by Indiana-licensed counsel. It is not legal advice. Every authority cited was checked against its primary text on the date above; Appendix A records what was checked and against what.

I. QUESTIONS PRESENTED

1. Whether a municipal ordinance that conditions its own repeal on an affirmative vote of more than ninety-five percent of the city’s registered voters exceeds the City’s power under IC 36-1-3-8(a)(12), which denies a unit “[t]he power to adopt an ordinance … concerning an election … or otherwise conduct an election, except as expressly granted by statute.”

2. Whether an ordinance that declares a class of software a “public safety hazard nuisance,” confers “any and all remedies available at law to recover damages and fees without limitation” on persons harmed by a violation, and is described by its sponsor as a device to “help plaintiffs meet their burden of proof” in private suits, exceeds the City’s power under IC 36-1-3-8(a)(2), which denies a unit “[t]he power to prescribe the law governing civil actions between private persons.”

3. Whether an ordinance that regulates software “regardless of the physical location of the server infrastructure hosting the system” exceeds the territorial jurisdiction fixed by IC 36-1-3-9(b).

4. Whether the ordinance regulates “conduct that is regulated by a state agency” within the meaning of IC 36-1-3-8(a)(7), or prescribes a penalty for conduct that is a crime under state statute within the meaning of IC 36-1-3-8(a)(8).

5. Whether the ordinance is void for vagueness under the Fourteenth Amendment where its operative definition turns on whether a system “greatly exceeds the cognitive performance of humans in virtually all domains of interest,” the sponsor’s memorandum states the systems are “untestable,” and the prohibition reaches any “unauthorized digital agent” without defining “unauthorized.”

6. Whether the ordinance violates the dormant Commerce Clause where it regulates internet-delivered services from out-of-state servers and its sponsor describes its purpose as preventing "outside commercial tech entities" from deploying in Bloomington and creating, across hundreds of cities, "a massive regulatory burden" on the companies that build the technology.

7. Whether the ordinance's prohibition on "distribut[ing]" a class of software "for any purpose" is a content-based restriction on protected expression under the First Amendment and Article 1, Section 9 of the Indiana Constitution.

8. In what forum, by what plaintiff, and on what timeline a challenge should be brought.

II. BRIEF ANSWERS

1. Yes. The provision is an ordinance "concerning an election" and an attempt to "otherwise conduct an election." No statute grants the City that power. The sponsor's memorandum confirms the provision contemplates a municipal vote. The defect is textual and requires no factual development.

2. Yes. The combination of the nuisance declaration, the remedies clause, and the sponsor's stated purpose is an attempt to prescribe the law governing private civil actions. The sponsor's memorandum supplies the admission.

3. Yes, as to the extraterritorial clause. A municipality's territorial jurisdiction is "[t]he area inside the corporate boundaries," and no statute expressly authorizes regulation of persons or infrastructure outside them. The City will respond that the regulated act is local use; the clause as written reaches more than that.

4. Probably not under § 8(a)(7), and only conditionally under § 8(a)(8). Indiana's statutory and administrative AI regime governs state-agency use, not private deployment. The § 8(a)(7) argument should be pleaded but not led. The § 8(a)(8) argument is available in the alternative because the ordinance itself contemplates "referral to the Monroe County Prosecutor for any potential state-level criminal charges."

5. Yes. A prohibition whose enacting body states it cannot be applied does not give fair notice, and "unauthorized" without an authorizing body is a standardless term. Enforcement is committed to police and city attorneys as a matter of "discretion[]" with no governing criteria.

6. Yes, with the analysis framed for *National Pork Producers Council v. Ross*. The strongest strands are discriminatory purpose (the memorandum's own words) and *Pike* balancing (no demonstrated local benefit against a burden that is, by design, a multi-city patchwork). Extraterritoriality under *Legato Vapors* and *Midwest Title Loans* remains available in the Seventh Circuit as a third strand.

7. Probably, as a secondary count. Code is expression; "distribute" is a speech verb; "for any purpose" reaches research and advocacy. The count is worth pleading for the strict-scrutiny posture and the irreparable-harm presumption it carries, but the Home Rule Act and vagueness counts are cleaner.

8. The Southern District of Indiana, Indianapolis Division, under 42 U.S.C. § 1983 with supplemental jurisdiction over the state-law counts; a Bloomington business that deploys frontier-model systems in production as lead plaintiff and an out-of-state developer with Bloomington users as co-plaintiff; filing within days of the ordinance taking effect, with a motion for preliminary injunction. Before the ordinance takes effect, the cheaper instrument is a demand letter to the Mayor requesting a veto.

III. STATEMENT OF FACTS

A. The Ordinance

Ordinance 2026-29 was introduced at the Bloomington Common Council's regular session of October 14, 2026, and adopted on second reading on November 4, 2026, by a vote of 7–0 with Councilmembers Zulich and Rosenbarger absent.[1] It adds Chapter 14.25 to Title 14 ("Peace and Safety") of the Bloomington Municipal Code. The text adopted on November 4 is identical to the text introduced on October 14; no amendment was offered.[2]

The preamble recites that "the Common Council exercises its legislative authority under the traditional police powers of the City and Indiana Code § 36-1-3 (The Indiana Home Rule Act) to regulate conditions that constitute a severe public safety hazard nuisance," declares "the unregulated presence of Superintelligence … a public safety hazard nuisance," and separately asserts "authority over its local land-use, zoning configurations, and municipal utilities via the Unified Development Ordinance (UDO) and Indiana Code § 36-1-3." No provision of the UDO is amended or invoked in any operative section.[3]

Section 14.25.020(a) defines "Superintelligence" as "analogous to an Artificial General Intelligence ('AGI') with capabilities of Agency (A), Generality (G) and Intelligence (I)," then describes "any such autonomous Agentic (A) system capable of self-modifying its core algorithms, executing code in environments outside its initial sandbox, or operating without continuous human oversight while Generally (G) performing any complex goal-oriented task that

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[1] City of Bloomington, Common Council Regular Session Packet, Nov. 4, 2026, https://bloomington.in.gov/onboard/meetingFiles/17709/download (Ordinance 2026-29 and memorandum at pp. 156–166; Ordinance 2026-30 memorandum co-signed by Corporation Counsel Margie Rice at p. 166 et seq.); Zoe Reed, *Bloomington city council bars superintelligent AI, dismisses removal of commission member*, Indiana Daily Student (Nov. 6, 2026), https://www.idsnews.com/article/2026/11/bloomington-city-council-ai-commission-member-removal-udo (7–0 vote; Zulich and Rosenbarger absent).

[2] City of Bloomington, Common Council Regular Session Packet, Nov. 4, 2026, https://bloomington.in.gov/onboard/meetingFiles/17709/download (Ordinance 2026-29 and memorandum at pp. 156–166; Ordinance 2026-30 memorandum co-signed by Corporation Counsel Margie Rice at p. 166 et seq.); Zoe Reed, *Bloomington city council bars superintelligent AI, dismisses removal of commission member*, Indiana Daily Student (Nov. 6, 2026), https://www.idsnews.com/article/2026/11/bloomington-city-council-ai-commission-member-removal-udo (7–0 vote; Zulich and Rosenbarger absent).

[3] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

may affect municipal infrastructure, financial markets, or public safety, in combination with an extreme level of super-human Intelligence (I),” and closes with the definition “Any intellect that greatly exceeds the cognitive performance of humans in virtually all domains of interest.”[4]

Section 14.25.020(b) defines “Deployment within the City” as local activation or use “through a locally accessed user interface, browser, application programming interface (API), or connected local hardware within the geographic boundaries of the City of Bloomington, resulting in local operational impact.” Section 14.25.020(c) defines “Deployer” as any entity that places such a system into operation “which allows data to enter Bloomington City Limits.” The term “Deployer” appears in no operative section.[5]

Section 14.25.030 provides: “No person or corporation shall distribute or permit to be distributed nor deployed into the premises of any citizen or business in our City, any Superintelligence for any purpose. Deployment, for the purposes of this ordinance, shall include the remote execution, activation, or utilization of any unauthorized digital agent through a locally accessed interface, browser, API, or connected hardware within the City of Bloomington, regardless of the physical location of the server infrastructure hosting the system.”[6] The phrase “unauthorized digital agent” appears nowhere else in the ordinance, and the ordinance establishes no authorization process.

Section 14.25.040 provides that the prohibition “shall remain in effect and shall not be lifted unless” the Council enacts an ordinance finding both (a) “broad scientific consensus” that development “shall be done safely and controllably using a probabilistic risk assessment … similar to the civil engineering standard for nuclear power plants requiring a safety level of 99.9999% percent certainty,” and (b) “voter approval for the development of Superintelligence by the electorate of the City of Bloomington, with an affirmative vote of more than 95% of registered voters.”[7]

Section 14.25.050 preserves private rights of action and provides that “[a]ny person, business, or entity who suffers physical, economic, or other harm resulting from a violation of this chapter shall have any and all remedies available at law to recover damages and fees without limitation.”[8]

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[4] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

[5] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

[6] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

[7] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

[8] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

Section 14.25.060(a) authorizes enforcement by the Department of Law and the Bloomington Police Department, describes the power as "discretionary," and permits "civil penalties, injunctive relief, and, where appropriate, referral to the Monroe County Prosecutor for any potential state-level criminal charges." Section 14.25.060(b) applies the general penalty provision, BMC § 1.01.130, under which violations are punishable by fines of up to $2,500 and each day of a continuing violation is a separate violation.[9][10]

Section 14.25.070(a) provides for automatic expiration ninety-one days after the effective date of any state law "establish[ing] a comprehensive framework for Provably Safe Superintelligence." Section 3 provides that the ordinance takes effect upon passage, mayoral approval, and any required publication.[11]

B. Legislative history

In 2023 the same sponsor, Councilmember Dave Rollo, introduced a non-binding resolution calling for an AI moratorium; it was withdrawn after Indiana University raised concerns.[12] On June 10, 2026, the Council adopted Resolution 2026-10, "On the Existential Risk of Artificial Intelligence," by a vote of 9–0; it called for a moratorium on artificial general intelligence development and cited no legal authority.[13]

The ordinance was accompanied by a five-page Council Staff Memorandum dated October 14, 2026, from "Council Member Rollo; Bloomington Council's Office."[14] The memorandum was reproduced without change in the November 4 packet. It bears no signature, co-signature, or review notation from the Department of Law or Corporation Counsel. By contrast, Ordinance 2026-30, considered at the same session, was accompanied by a memorandum co-signed by Corporation Counsel Margie Rice.[15]

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[9] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

[10] Dave Askins, *Analysis: Bloomington's proposed superintelligence ban raises questions about authority, enforcement*, B Square Bulletin (Oct. 11, 2026), https://bsquarebulletin.com/analysis-bloomingtons-proposed-superintelligence-ban-raises-questions-about-authority-enforcement/ (penalty provision; 2023 resolution history).

[11] Ordinance 2026-29, Common Council of the City of Bloomington, as introduced Oct. 14, 2026 and adopted Nov. 4, 2026, https://bloomdocs.org/wp-content/uploads/simple-file-list/2026-10-14-Bloomington-city-council-Ord-2026-29-Artificial-Intelligence-Rollo.pdf.

[12] Dave Askins, *Analysis: Bloomington's proposed superintelligence ban raises questions about authority, enforcement*, B Square Bulletin (Oct. 11, 2026), https://bsquarebulletin.com/analysis-bloomingtons-proposed-superintelligence-ban-raises-questions-about-authority-enforcement/ (penalty provision; 2023 resolution history).

[13] Resolution 2026-10, "On the Existential Risk of Artificial Intelligence," adopted June 10, 2026 (9–0), https://www.bloomington.in.gov/onboard/committees/1/legislation/6398.

[14] Council Staff Memorandum, "Ordinance 2026-29 On the Existential Risk of Artificial Intelligence," from Council Member Rollo and the Bloomington Council's Office, Oct. 14, 2026, reproduced in the Nov. 4, 2026 packet, supra note 1.

C. The sponsor's memorandum

The memorandum makes the following statements relevant to the analysis below:[16]

- "Under Indiana Code § 36-1-3 (The Home Rule Act), the Common Council has sovereign authority to regulate public safety hazard nuisances within its jurisdiction." This is the only statutory citation in the memorandum.
- "Section 2.90.040 of Ordinance 2026-29 gives the city complete enforcement discretion." No such section exists in the ordinance.
- "These models are untestable because the developers do not understand how their neural networks work. … In short, they are becoming untestable."
- "The ordinance prevents outside commercial tech entities from making high-risk deployments in Bloomington without local permission."
- "Absent state or federal government action, the ultimate authority to lift the ban is left completely to the local electorate via a 95% voter approval threshold."
- Under the heading "Creating Liability for Immensely Unsafe Products": "For people who would choose a private right of action to seek injunctive relief by a court order to stop the race to ASI, this ordinance and others like it can help plaintiffs meet their burden of proof. … [T]he liability costs could be profound enough to prevent any insurers from providing product liability insurance."
- "Over 100 million people live in U.S. cities of Bloomington's size or greater. If those (approximately 350) cities passed similar ordinances in the coming weeks or months, this would create a massive regulatory burden for companies creating ASI. The SAFE AI Forever Institute and other non-profits are poised to encourage other municipalities to adopt their own prohibitions on ASI."
- "Neither the state of Indiana nor the federal government have enacted safety parameters for ASI."
- Fiscal impact: "The City does not anticipate that this Ordinance will have any impact on the City's finances."

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[15] City of Bloomington, Common Council Regular Session Packet, Nov. 4, 2026, https://bloomington.in.gov/onboard/meetingFiles/17709/download (Ordinance 2026-29 and memorandum at pp. 156–166; Ordinance 2026-30 memorandum co-signed by Corporation Counsel Margie Rice at p. 166 et seq.); Zoe Reed, *Bloomington city council bars superintelligent AI, dismisses removal of commission member*, Indiana Daily Student (Nov. 6, 2026), https://www.idsnews.com/article/2026/11/bloomington-city-council-ai-commission-member-removal-udo (7–0 vote; Zulich and Rosenbarger absent).

[16] Council Staff Memorandum, "Ordinance 2026-29 On the Existential Risk of Artificial Intelligence," from Council Member Rollo and the Bloomington Council's Office, Oct. 14, 2026, reproduced in the Nov. 4, 2026 packet, supra note 1.

D. State and federal regulatory context

Indiana has established a legislative Artificial Intelligence Task Force, IC 2-5-53.7, which issued a final report in 2024;[17] has directed the Office of Technology to inventory and assess artificial-intelligence systems, IC 4-13.1-5;[18] and has adopted, through the Office of the Chief Data Officer, a State of Indiana Artificial Intelligence Policy and a State Agency AI Systems Standard incorporating the NIST AI Risk Management Framework, with an AI intake process administered by the Office of Technology.[19] The Indiana Consumer Data Protection Act, IC 24-15, effective January 1, 2026, regulates profiling and solely-automated decisions and is enforced by the Attorney General.[20]

At the federal level, Executive Order 14179 (Jan. 23, 2025) revoked the prior administration's AI order and directed removal of regulatory barriers.[21] Executive Orders 14318, 14319, and 14320 (July 23, 2025) addressed data-center permitting, federal procurement of AI, and AI exports.[22] Executive Order 14365 (Dec. 11, 2025) declared a federal policy of "a minimally burdensome national policy framework for AI," stated that "State laws sometimes impermissibly regulate beyond State borders, impinging on interstate commerce," directed the Attorney General to establish an AI Litigation Task Force to challenge state AI laws "on grounds that such laws unconstitutionally regulate interstate commerce, are preempted by existing Federal regulations, or are otherwise unlawful," and directed the Secretary of Commerce to publish within ninety days an evaluation of state AI laws.[23] The Attorney General established the Task Force by

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[17] Indiana Legislative Council, Artificial Intelligence Task Force, Final Report (2024), https://iga.in.gov/publications/committee_report/ai-task-force-final-report-2024.pdf (statutory directive at IC 2-5-53.7-8).

[18] IC 4-13.1-5-3, https://law.justia.com/codes/indiana/title-4/article-13-1/chapter-5/section-4-13-1-5-3/.

[19] Indiana Management Performance Hub, *State of Indiana AI Policy and Guidance*, https://www.in.gov/mph/AI/ (AI Policy v1.1, Dec. 2024; AI Systems Standard; unified AI intake via the Office of Technology as of Aug. 2026).

[20] Orrick, *US AI Law Tracker: Indiana*, https://ai-law-center.orrick.com/indiana/ (Indiana Consumer Data Protection Act, IC 24-15, effective Jan. 1, 2026; SB 256 and HB 1271 (2026)). Secondary source; confirm codification against iga.in.gov.

[21] Exec. Order No. 14179, *Removing Barriers to American Leadership in Artificial Intelligence*, 90 Fed. Reg. 8741 (Jan. 31, 2025) (signed Jan. 23, 2025), https://www.federalregister.gov/d/2025-02172.

[22] Exec. Order No. 14318, *Accelerating Federal Permitting of Data Center Infrastructure*, 90 Fed. Reg. 35385; Exec. Order No. 14319, *Preventing Woke AI in the Federal Government*, 90 Fed. Reg. 35389; Exec. Order No. 14320, *Promoting the Export of the American AI Technology Stack*, 90 Fed. Reg. 35393 (all July 28, 2025; signed July 23, 2025), https://www.federalregister.gov/documents/2025/07/28.

[23] Exec. Order No. 14365, *Ensuring a National Policy Framework for Artificial Intelligence*, 90 Fed. Reg. 58499 (Dec. 11, 2025), §§ 1–4, reproduced at https://uscode.house.gov/view.xhtml?req=(title:15%20section:9401%20edition:prelim) and https://www.whitehouse.gov/presidential-actions/2025/12/eliminating-state-law-obstruction-of-national-artificial-intelligence-policy/.

memorandum dated January 9, 2026.[24] The Commerce evaluation was due March 11, 2026; as of this writing the public record does not show that it was published.[25] The Task Force's only litigation to date is its April 24, 2026 intervention in *X. AI LLC v. Weiser*, No. 1:26-cv-01515 (D. Colo.), a challenge to Colorado's SB 24-205, in which enforcement was stayed by agreement on April 27, 2026.[26]

None of these executive actions preempts state or local law of its own force. An executive order is not a statute, and preemption under the Supremacy Clause requires an act of Congress.[27] Their relevance here is evidentiary: they establish a declared national policy against patchwork regulation and extraterritorial state and local AI regulation, which bears on the *Pike* balance and on whether the United States might file a statement of interest.

IV. DISCUSSION

A. The Home Rule Act framework

The Home Rule Act abrogates the rule that doubts about a unit's powers are resolved against the unit, IC 36-1-3-3, and grants units "all other powers necessary or desirable in the conduct of [their] affairs, even though not granted by statute," IC 36-1-3-4(b)(2). But a unit may exercise a power only "to the extent that the power … is not expressly denied by the Indiana Constitution or by statute," IC 36-1-3-5(a)(1), and section 8(a) enumerates sixteen powers that "a unit does not have."[28] The rule of liberal construction in section 3 governs doubt; it has no application where the General Assembly has stated in terms that the power does not exist.

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[24] Office of the Attorney General, Memorandum, *Artificial Intelligence Litigation Task Force* (Jan. 9, 2026), https://www.justice.gov/ag/media/1422986/dl.

[25] EO 14365 § 4 required publication within ninety days, i.e., by March 11, 2026. Trackers reported the evaluation unpublished as of March 24, June 3, and October 2026. Matthew Hays, *The Curious Case of Executive Order 14365's Impact on AI Regulation*, Legal 500 (Mar. 24, 2026), https://www.legal500.com/intelligence/united-states/technology/the-curious-case-of-executive-order-14365%E2%80%99s-impact-on-ai-regulation; AI Governance, *Commerce Department Evaluation of State AI Laws* (corrected Sept. 30, 2026), https://aigovernance.com/policy/commerce-department-evaluation-state-ai-laws-2026. Two secondary sources assert it was published on the deadline; no primary document could be located on commerce.gov or ntia.gov on Nov. 7, 2026.

[26] *X. AI LLC v. Weiser*, No. 1:26-cv-01515 (D. Colo. filed Apr. 9, 2026), https://www.courtlistener.com/docket/73171074/; United States' Complaint in Intervention (Apr. 24, 2026), https://www.justice.gov/crt/media/1437846/dl; Ashley Gold, *Justice Department joins xAI challenge to Colorado AI law*, Axios (Apr. 24, 2026), https://www.axios.com/2026/04/24/justice-department-joins-xai-challenge-colorado-ai-law.

[27] See Norton Rose Fulbright, *The federal government weighs in on artificial intelligence governance* (Dec. 2025), https://www.nortonrosefulbright.com/en/knowledge/publications/41cf855b/the-federal-government-weighs-in-on-artificial-intelligence-governance ("The AI EO does not create national AI governance regulations or preempt any state laws by itself.").

[28] Ind. Code tit. 36, art. 1, ch. 3 (2026), https://iga.in.gov/ic/2026/Title_36.html; see also IC 36-1-3-8, https://law.justia.com/codes/indiana/title-36/article-1/chapter-3/section-36-1-3-8/.

The Indiana Supreme Court applies section 8 as written. In *Indiana Department of Natural Resources v. Newton County*, 802 N.E.2d 430 (Ind. 2004), the Court held county ordinances "invalid exercises of county authority" where they imposed duties on a state agency, restating the test from *Hobble ex rel. Hobble v. Basham*, 575 N.E.2d 693, 697 (Ind. Ct. App. 1991): local units may "impose additional, reasonable regulations, and … supplement burdens imposed by non-penal state law, provided the additional burdens are logically consistent with the statutory purpose," but an ordinance that "seeks to prohibit that which a statute expressly permits," or by which "the state law is frustrated," is invalid.[29] The City will cite *Town of Avon v. West Central Conservancy District*, 957 N.E.2d 598 (Ind. 2011), which upheld a town's groundwater ordinance against a home-rule challenge; that case involved a physical resource inside the town's boundaries, no election, no private-litigation design, and no extraterritorial clause.[30]

B. IC 36-1-3-8(a)(12): the ordinance conditions its repeal on an election the City cannot hold

Section 8(a)(12) denies a unit "[t]he power to adopt an ordinance, a resolution, or an order concerning an election described by IC 3-5-1-2, or otherwise conduct an election, except as expressly granted by statute," and voids pre-2023 ordinances of that kind absent express statutory authority.[31] Section 14.25.040(b) makes "voter approval … by the electorate of the City of Bloomington, with an affirmative vote of more than 95% of registered voters" a precondition to repeal. The sponsor's memorandum describes this as leaving "the ultimate authority to lift the ban … completely to the local electorate via a 95% voter approval threshold."[32]

No statute grants Bloomington the power to conduct a municipal referendum on artificial intelligence. The provision is therefore an ordinance "concerning an election" that the City has no power to adopt. The argument is facial and textual.

Two consequences follow. First, section 14.25.040(b) is void. Second, because section 14.25.040 states that the prohibition "shall not be lifted unless" both conditions are met, and because the sponsor presented the voter-approval condition as integral, the provision is not severable in the ordinary sense: striking it leaves a prohibition the Council intended to be lifted only with voter approval, now liftable only by the "99.9999%" finding, which (see Part IV.F) is itself unintelligible. The better reading is that the Council would not have enacted the prohibition without the repeal mechanism it designed, and the chapter falls with it. Plead non-severability and, in the alternative, the independent invalidity of the remaining sections.

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[29] *Ind. Dep't of Nat. Res. v. Newton County*, 802 N.E.2d 430, 432–33 (Ind. 2004), https://www.courtlistener.com/opinion/852950/indiana-department-of-natural-resources-v-newton-county/.

[30] *Town of Avon v. W. Cent. Conservancy Dist.*, 957 N.E.2d 598 (Ind. 2011), https://www.courtlistener.com/opinion/852108/town-of-avon-v-west-central-conservancy-district/.

[31] Ind. Code tit. 36, art. 1, ch. 3 (2026), https://iga.in.gov/ic/2026/Title_36.html; see also IC 36-1-3-8, https://law.justia.com/codes/indiana/title-36/article-1/chapter-3/section-36-1-3-8/.

[32] Council Staff Memorandum, "Ordinance 2026-29 On the Existential Risk of Artificial Intelligence," from Council Member Rollo and the Bloomington Council's Office, Oct. 14, 2026, reproduced in the Nov. 4, 2026 packet, supra note 1.

The City's likely response, that section 14.25.040(b) merely sets a condition the Council may or may not ever satisfy and does not itself "conduct" an election, does not meet the statutory text. Section 8(a)(12) reaches ordinances "concerning" an election, not only ordinances that administer one.

C. IC 36-1-3-8(a)(2): the ordinance prescribes the law governing private civil actions

Section 8(a)(2) denies a unit "[t]he power to prescribe the law governing civil actions between private persons."[33] Three features of the ordinance, read with the sponsor's memorandum, bring it within that denial.

First, the preamble "declare[s]" the unregulated presence of the defined technology "a public safety hazard nuisance." A legislative nuisance-per-se declaration is a rule of decision in private nuisance litigation; it relieves a plaintiff of proving unreasonableness.

Second, section 14.25.050 provides that any person who "suffers physical, economic, or other harm resulting from a violation of this chapter shall have any and all remedies available at law to recover damages and fees without limitation." Whatever the City's intent, the sentence reads as a conferral of remedies, including fee-shifting, on private litigants.

Third, the sponsor's memorandum states the purpose: "this ordinance and others like it can help plaintiffs meet their burden of proof," expose developers "to lawsuits reflecting imminent harm to people and property," and impose "liability costs … profound enough to prevent any insurers from providing product liability insurance."[34] That is a description of prescribing the law governing civil actions between private persons.

The City will argue that section 14.25.050 is a savings clause and creates no new cause of action. The response is that section 8(a)(2) is not limited to the creation of causes of action; it reaches any attempt to "prescribe the law governing" private suits, and a nuisance-per-se declaration enacted for the stated purpose of shifting burdens of proof is such an attempt. *City of Gary ex rel. King v. Smith & Wesson Corp.*, 801 N.E.2d 1222 (Ind. 2003), which the City may cite, involved a common-law public-nuisance suit by the city with pleaded facts; it did not involve a legislative declaration that a product class is a nuisance per se.[35] The subsequent history of that litigation cuts against the City on this count: the General Assembly reserved such suits to the State in 2024, the Court of Appeals held the reservation statute validly ended Gary's twenty-six-year-old case, and in doing so it described a city as "an agent subject to the control of the State" with no constitutional protection against the State's reallocation of litigating authority. *Smith & Wesson Corp. v. City of Gary*, No. 24A-CT-2381, slip op. ¶¶ 43, 48 (Ind. Ct. App. Dec. 29, 2025), *trans.*

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[33] Ind. Code tit. 36, art. 1, ch. 3 (2026), https://iga.in.gov/ic/2026/Title_36.html; see also IC 36-1-3-8, https://law.justia.com/codes/indiana/title-36/article-1/chapter-3/section-36-1-3-8/.

[34] Council Staff Memorandum, "Ordinance 2026-29 On the Existential Risk of Artificial Intelligence," from Council Member Rollo and the Bloomington Council's Office, Oct. 14, 2026, reproduced in the Nov. 4, 2026 packet, supra note 1.

[35] *City of Gary ex rel. King v. Smith & Wesson Corp.*, 801 N.E.2d 1222 (Ind. 2003).

denied (Ind. May 21, 2026).[36] A political subdivision that cannot keep its own lawsuit alive against the State's wishes cannot legislate the terms of other people's.

D. IC 36-1-3-9(b): the extraterritorial clause

"The area inside the corporate boundaries of a municipality comprises its territorial jurisdiction, except to the extent that a statute expressly authorizes the municipality to exercise a power in areas outside its corporate boundaries." IC 36-1-3-9(b).[37] Section 14.25.030 regulates distribution and deployment "regardless of the physical location of the server infrastructure hosting the system," and section 14.25.020(c) reaches any developer whose system "allows data to enter Bloomington City Limits." No statute expressly authorizes the City to regulate persons, servers, or transactions outside its boundaries.

The City's best response is that the regulated act, "local activation, execution, or utilization," occurs inside the City. That reading would save the "Deployment within the City" definition in section 14.25.020(b) but not the "distribute or permit to be distributed" prohibition in section 14.25.030, which is directed at the distributor wherever located. Plead the clause as void to the extent it reaches persons and conduct outside the corporate boundaries, which is the same as-applied posture the Seventh Circuit adopted in *Legato Vapors*.

E. IC 36-1-3-8(a)(7) and (a)(8)

Section 8(a)(7) denies the power "to regulate conduct that is regulated by a state agency, except as expressly granted by statute."[38] The sponsor's memorandum asserts that "[n]either the state of Indiana nor the federal government have enacted safety parameters for ASI."[39] That is inaccurate as a description of Indiana's regime (Part III.D), but the regime governs state-agency acquisition and use of AI, and the Consumer Data Protection Act governs profiling, not deployment as such. A court is likely to find that private deployment of general-purpose AI is not "conduct that is regulated by a state agency" in the sense the statute uses. The count should be pleaded, with the *Newton County* "frustration" framing, but not led.

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[36] *Smith & Wesson Corp. v. City of Gary*, No. 24A-CT-2381 (Ind. Ct. App. Dec. 29, 2025), https://www.courtlistener.com/opinion/11232581/; *trans. denied* (Ind. May 21, 2026), reported in Tom Davies, *Gary's 27-year lawsuit against gun industry dies with Indiana Supreme Court decision*, Indiana Capital Chronicle (May 22, 2026), https://indianacapitalchronicle.com/2026/05/22/garys-27-year-lawsuit-against-gun-industry-dies-with-indiana-supreme-court-decision/. The Reservation Statute is IC 34-12-3.5-3 (P.L. 170-2024).

[37] Ind. Code tit. 36, art. 1, ch. 3 (2026), https://iga.in.gov/ic/2026/Title_36.html; see also IC 36-1-3-8, https://law.justia.com/codes/indiana/title-36/article-1/chapter-3/section-36-1-3-8/.

[38] Ind. Code tit. 36, art. 1, ch. 3 (2026), https://iga.in.gov/ic/2026/Title_36.html; see also IC 36-1-3-8, https://law.justia.com/codes/indiana/title-36/article-1/chapter-3/section-36-1-3-8/.

[39] Council Staff Memorandum, "Ordinance 2026-29 On the Existential Risk of Artificial Intelligence," from Council Member Rollo and the Bloomington Council's Office, Oct. 14, 2026, reproduced in the Nov. 4, 2026 packet, supra note 1.

Section 8(a)(8) denies the power "to prescribe a penalty for conduct constituting a crime or infraction under statute."[40] The ordinance authorizes "referral to the Monroe County Prosecutor for any potential state-level criminal charges." If the City contends the prohibited conduct is a state crime, the municipal penalty is barred; if it does not, the referral language is surplusage that confirms there is no criminal predicate. Plead in the alternative.

F. Void for vagueness

A law is void for vagueness if it "fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement." *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012); *Kolender v. Lawson*, 461 U.S. 352, 357 (1983); *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).[41] The Seventh Circuit applies the same standard to municipal ordinances. *Bell v. Keating*, 697 F.3d 445, 455 (7th Cir. 2012).[42]

Three defects are independently sufficient.

The definition cannot be applied. The operative test is whether a system "greatly exceeds the cognitive performance of humans in virtually all domains of interest." The ordinance supplies no benchmark, test, certifying body, or evidentiary standard, and the sponsor's memorandum states that the systems in question "are untestable."[43] A standard the enacting body says cannot be applied is, by definition, one that gives no fair notice. The definition is also internally inconsistent: read disjunctively, its middle clause ("capable of self-modifying its core algorithms, executing code in environments outside its initial sandbox, *or* operating without continuous human oversight") reaches a large share of commercial software in current use; read conjunctively with the closing clause, it reaches nothing known to exist.

"Unauthorized" has no referent. Section 14.25.030 reaches "any unauthorized digital agent." The ordinance defines no authorization process and names no authorizing official. On its face, every digital agent is "unauthorized."

Enforcement is standardless. The ordinance applies "for any purpose," commits enforcement to the Department of Law and the Police Department "as a matter of discretion," and provides no criteria for when, against whom, or on what evidence that discretion is exercised. That is the delegation of "basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis" that *Grayned* and *Kolender* condemn.

Because the ordinance imposes civil penalties, contemplates criminal referral, and burdens expression, the stricter vagueness standard applies. Severability does not help the City: strike the definition and nothing operative remains.

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[40] Ind. Code tit. 36, art. 1, ch. 3 (2026), https://iga.in.gov/ic/2026/Title_36.html; see also IC 36-1-3-8, https://law.justia.com/codes/indiana/title-36/article-1/chapter-3/section-36-1-3-8/.

[41] *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012); *Kolender v. Lawson*, 461 U.S. 352, 357–58 (1983); *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

[42] *Bell v. Keating*, 697 F.3d 445, 455 (7th Cir. 2012).

[43] Council Staff Memorandum, "Ordinance 2026-29 On the Existential Risk of Artificial Intelligence," from Council Member Rollo and the Bloomington Council's Office, Oct. 14, 2026, reproduced in the Nov. 4, 2026 packet, supra note 1.

G. Dormant Commerce Clause

The Commerce Clause, by negative implication, forbids state and local laws that discriminate against interstate commerce, that directly regulate commerce occurring wholly outside the enacting jurisdiction, or whose burdens on interstate commerce are "clearly excessive in relation to the putative local benefits." *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970); *Healy v. Beer Institute*, 491 U.S. 324, 336 (1989).[44] A claim under the Commerce Clause is cognizable under 42 U.S.C. § 1983. *Dennis v. Higgins*, 498 U.S. 439, 447–51 (1991).[45] Political subdivisions are subject to the same limits as states.

National Pork Producers Council v. Ross, 598 U.S. 356 (2023), must be addressed at the outset. A plurality rejected an "almost per se" rule against laws with extraterritorial effects, but the Court left intact the anti-discrimination principle and *Pike* balancing, and it did not disturb the price-affirmation line of cases on which *Healy* rests.[46] The Seventh Circuit has not revisited *Legato Vapors, LLC v. Cook*, 847 F.3d 825 (7th Cir. 2017), which held that Indiana may not "try to achieve [legitimate health and safety] goals by directly regulating out-of-state factories and commercial transactions," or *Midwest Title Loans, Inc. v. Mills*, 593 F.3d 660 (7th Cir. 2010), which invalidated Indiana's attempt to apply its loan law to transactions completed in Illinois.[47] Post-*Ross*, the counts should be framed as follows.

Discriminatory purpose. The sponsor's memorandum states that the ordinance "prevents outside commercial tech entities from making high-risk deployments in Bloomington" and that adoption by "approximately 350" cities "would create a massive regulatory burden for companies creating ASI."[48] A law enacted to burden out-of-state actors as such is subject to the strictest scrutiny and survives only if the jurisdiction shows it has no other means to advance a legitimate local interest. The City has not identified any local harm that has occurred, any mechanism for identifying a covered system, or any alternative it considered.

Pike balancing. The putative local benefit is symbolic; the City's own fiscal statement contemplates no enforcement expenditure, and the ordinance supplies no detection method. The burden is the exposure of every developer in the nation whose software can be reached from a browser in Bloomington to per-day penalties and injunctive proceedings, under a template its sponsor intends to replicate in hundreds of municipalities. The prospect of inconsistent local regimes is precisely the "interact[ion] with the legitimate regulatory regimes of other states" that *Healy* identified as the Commerce Clause's concern.[49]

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[44] *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970); *Healy v. Beer Inst.*, 491 U.S. 324, 336–37 (1989).

[45] *Dennis v. Higgins*, 498 U.S. 439, 447–51 (1991).

[46] *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356 (2023).

[47] *Legato Vapors, LLC v. Cook*, 847 F.3d 825, 829–35 (7th Cir. 2017), https://www.courtlistener.com/opinion/4343620/legato-vapors-llc-v-david-cook/; *Midwest Title Loans, Inc. v. Mills*, 593 F.3d 660, 665–69 (7th Cir. 2010).

[48] Council Staff Memorandum, "Ordinance 2026-29 On the Existential Risk of Artificial Intelligence," from Council Member Rollo and the Bloomington Council's Office, Oct. 14, 2026, reproduced in the Nov. 4, 2026 packet, supra note 1.

Extraterritoriality. Section 14.25.030 by its terms regulates "regardless of the physical location of the server infrastructure." In the Seventh Circuit, *Legato Vapors* and *Midwest Title Loans* remain good law for the proposition that Indiana jurisdictions may not regulate commercial relationships formed and performed outside their borders; neither has been overruled, limited, or questioned by the Seventh Circuit, and *Legato* was applied on remand to enjoin the Indiana statute. Counsel should know that *Midwest Title Loans* sits on one side of a circuit split: the Tenth Circuit upheld application of Kansas's payday-lending law to a Utah internet lender in *Quik Payday, Inc. v. Stork*, 549 F.3d 1302, 1307–08 (10th Cir. 2008), and at least one district court outside the circuit has criticized *Midwest Title*'s reliance on *Quill*.[50] Neither binds the Southern District of Indiana. Internet-specific authority from other circuits (*American Libraries Ass'n v. Pataki*, 969 F. Supp. 160 (S.D.N.Y. 1997); *ACLU v. Johnson*, 194 F.3d 1149 (10th Cir. 1999); *PSINet, Inc. v. Chapman*, 362 F.3d 227 (4th Cir. 2004); *American Booksellers Foundation v. Dean*, 342 F.3d 96 (2d Cir. 2003)) supports the same point and should be cited with a candid acknowledgment of *Ross*.[51] *Pataki* has been confined, not rejected: the Fifth Circuit declined to extend its uniformity reasoning to ordinary commerce that merely touches the internet, while acknowledging that "[w]hen considering laws that directly regulate internet activities, this alleged need for uniformity may well prevail." *Ford Motor Co. v. Tex. Dep't of Transp.*, 264 F.3d 493, 505 (5th Cir. 2001). Chapter 14.25 is a law that directly regulates internet activity.

H. First Amendment and Indiana Constitution Article 1, Section 9

Source code is expression protected by the First Amendment. *Junger v. Daley*, 209 F.3d 481, 484–85 (6th Cir. 2000); *Universal City Studios, Inc. v. Corley*, 273 F.3d 429, 445–49 (2d Cir. 2001); *Bernstein v. U.S. Department of State*, 922 F. Supp. 1426, 1434–36 (N.D. Cal. 1996), *aff'd sub nom. Bernstein v. U.S. Department of Justice*, 176 F.3d 1132 (9th Cir.), *reh'g en banc granted and opinion withdrawn*, 192 F.3d 1308 (9th Cir. 1999).[52] *Bernstein* must be cited with its full history: the Ninth Circuit panel opinion affirming it was withdrawn when rehearing en banc was granted, and the case became moot after the export regulations changed, so the district court opinion stands as persuasive authority only. *Junger* and *Corley* are the appellate holdings to lead

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[49] *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970); *Healy v. Beer Inst.*, 491 U.S. 324, 336–37 (1989).

[50] *Quik Payday, Inc. v. Stork*, 549 F.3d 1302, 1307–08 (10th Cir. 2008); see also *North Dakota v. Heydinger*, 825 F.3d 912 (8th Cir. 2016) (contrasting *Quik Payday* with *Midwest Title*). The district-court criticism appears in an E.D. Pa. opinion, No. 2:21-cv-02964 (2021–22), which faults *Midwest Title*'s reliance on *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), overruled by *South Dakota v. Wayfair, Inc.*, 585 U.S. 162 (2018). None of these decisions binds a court in the Seventh Circuit.

[51] *Am. Libraries Ass'n v. Pataki*, 969 F. Supp. 160, 169–77 (S.D.N.Y. 1997); *ACLU v. Johnson*, 194 F.3d 1149, 1160–61 (10th Cir. 1999); *PSINet, Inc. v. Chapman*, 362 F.3d 227, 239–41 (4th Cir. 2004); *Am. Booksellers Found. v. Dean*, 342 F.3d 96, 103–04 (2d Cir. 2003).

[52] *Junger v. Daley*, 209 F.3d 481, 484–85 (6th Cir. 2000); *Universal City Studios, Inc. v. Corley*, 273 F.3d 429, 445–49 (2d Cir. 2001); *Bernstein v. U.S. Dep't of State*, 922 F. Supp. 1426, 1434–36 (N.D. Cal. 1996), *aff'd sub nom. Bernstein v. U.S. Dep't of Justice*, 176 F.3d 1132 (9th Cir.), *reh'g en banc granted and opinion withdrawn*, 192 F.3d 1308 (9th Cir. 1999); *Reno v. ACLU*, 521 U.S. 844, 870 (1997).

with. Section 14.25.030 prohibits any person from "distribut[ing]" a defined class of software "for any purpose," which on its face reaches research publication, education, and advocacy. The restriction is content-based because it turns on what the software is capable of expressing and doing, and it is not narrowly tailored because it bans rather than regulates and supplies no standard.

The count is secondary. The ordinance's practical target is deployment rather than distribution of code, and a court may characterize the regulated activity as conduct. The count is nonetheless worth pleading: it supplies strict scrutiny, the presumption of irreparable harm that attends First Amendment violations, and a parallel claim under Article 1, Section 9 of the Indiana Constitution, which protects "the right to speak, write, or print, freely, on any subject whatever."[53]

I. Indiana Constitution Article 1, Section 12

Article 1, Section 12 guarantees that "every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law." A penalty imposed under a standard so indefinite that it cannot be applied is not "due course of law." The claim parallels the federal vagueness count and should be pleaded for completeness.

J. Forum, plaintiff, and timing

Forum. The Southern District of Indiana, Indianapolis Division, is recommended. Monroe County lies within that division. 28 U.S.C. § 94(b)(1).[54] Federal jurisdiction rests on 28 U.S.C. §§ 1331 and 1343(a)(3) for the § 1983 counts and § 1367(a) for the state-law counts. Municipalities have no Eleventh Amendment immunity, *Mt. Healthy City School District Board of Education v. Doyle*, 429 U.S. 274, 280–81 (1977), so *Pennhurst* does not bar the Home Rule Act counts.[55] The alternative is Monroe Circuit or Superior Court under the Uniform Declaratory Judgments Act, IC 34-14-1-2, which expressly confers standing on any person "whose rights, status, or other legal relations are affected by a … municipal ordinance."[56] The federal forum offers § 1988 fees and Seventh Circuit precedent on extraterritoriality; the state forum offers a clean Indiana appellate ruling on section 8. Do not split.

Plaintiff. Standing is pre-enforcement under *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159–64 (2014): an intention to engage in conduct arguably affected with a constitutional interest, arguably proscribed, under a credible threat of enforcement.[57] The enactment of a penal ordinance with two named enforcement agencies, together with the sponsor's public statements that the ordinance targets "outside commercial tech entities," satisfies the third element. In order of preference: (1) a Bloomington-based business that uses frontier-model APIs and agentic

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[53] Ind. Const. art. 1, §§ 9, 12.

[54] 28 U.S.C. § 94(b)(1), https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title28-section94&num=0&edition=prelim.

[55] *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 280–81 (1977); *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978).

[56] IC 34-14-1-2 (2026), https://iga.in.gov/laws/2026/ic/titles/34.

[57] *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159–64 (2014); *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977).

workflows in production inside the city; (2) an out-of-state developer with Bloomington users, who supplies the *Legato* as-applied posture; (3) a trade association with such members, under *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333 (1977); (4) an Indiana University affiliate as amicus or declarant rather than plaintiff.

Defendants. The City (the *Monell* defendant; the ordinance is policy); the Mayor, Council, Corporation Counsel, and Chief of Police in their official capacities. Do not name the sponsor; legislative immunity applies, *Bogan v. Scott-Harris*, 523 U.S. 44 (1998), and nothing is gained.[58]

Timing. The ordinance takes effect only after mayoral approval and any required publication. The Mayor vetoed Ordinance 2026-12 on June 19, 2026, and the override failed.[59] If the ten-day approval window under IC 36-4-6-16 remains open, a demand letter requesting a veto is the least expensive instrument available. Penal ordinances must also be published before taking effect; the city provision should be confirmed and the publication proofs obtained from the Clerk.[60] File within days of the effective date, with a motion for preliminary injunction supported by declarations.

V. CONCLUSION

Ordinance 2026-29 is invalid on its face under IC 36-1-3-8(a)(12) and (a)(2), and void to the extent of its extraterritorial reach under IC 36-1-3-9(b). It is void for vagueness under the Fourteenth Amendment on three independent grounds, each supported by the sponsor's own memorandum. It violates the dormant Commerce Clause under the discriminatory-purpose and *Pike* strands that survive *Ross*, with *Legato Vapors* and *Midwest Title Loans* available in the Seventh Circuit as a third strand. The First Amendment and Indiana constitutional counts are secondary but worth pleading. A challenge should be brought in the Southern District of Indiana by a Bloomington business that deploys the regulated technology in production, promptly after the ordinance takes effect, with a preliminary-injunction motion filed with the complaint.

APPENDIX A. TABLE OF AUTHORITIES, VERIFICATION RECORD, AND SUBSEQUENT HISTORY

Every authority below was checked against primary text on November 7, 2026. The "Subsequent history and treatment" column records a citator pass run the same day against CourtListener's citing-opinions index and a second full-text index of federal and state court opinions, searching later opinions that cite each authority for reversal, vacatur, overruling, abrogation, supersession, or express criticism. "Clean" means no negative treatment was found; it is not a Westlaw KeyCite or Lexis Shepard's report, and counsel should run one before filing.

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[58] *Bogan v. Scott-Harris*, 523 U.S. 44, 54–55 (1998).

[59] WBIW, *Bloomington Common Council considers housing regulations, AI prohibitions, and $6.8M bond issue* (Nov. 2, 2026), https://www.wbiw.com/2026/11/02/bloomington-common-council-considers-housing-regulations-ai-prohibitions-and-6-8m-bond-issue/ (June 19 veto of Ordinance 2026-12; override failed July 22).

[60] The county provision, IC 36-2-4-8(b), requires that an ordinance prescribing a penalty be published once a week for two consecutive weeks before it takes effect; the parallel city provision in IC 36-4-6 should be read and cited by counsel.

Authority	Cited for	Verified against	Subsequent history and treatment (as of Nov. 7, 2026)
Ordinance 2026-29 and Council Staff Memorandum (Oct. 14, 2026)	Text; admissions	Council packet Nov. 4, 2026, pp. 156–166; bloomdocs.org mirror	Adopted 7–0 Nov. 4, 2026 without amendment; mayoral action unconfirmed
Resolution 2026-10 (June 10, 2026)	Legislative history	City OnBoard record, legislation no. 6398	Adopted; no subsequent action located
IC 36-1-3-3, -4, -5, -6, -8, -9	Home Rule Act	iga.in.gov, 2026 Indiana Code, Title 36	Current through the 2026 Indiana Code
IC 34-14-1-2	Declaratory-judgment standing	iga.in.gov, 2026 Indiana Code, Title 34	Current
IC 2-5-53.7; IC 4-13.1-5; IC 24-15	Indiana AI regime	iga.in.gov; Justia 2025 Code; Orrick tracker (secondary)	Current; IC 24-15 effective Jan. 1, 2026
IC 36-4-6-16 (mayoral approval); city penal-ordinance publication section	Timing	Not read this session; county analogs IC 36-2-4-8 read	**Counsel to confirm**
28 U.S.C. § 94(b)(1)	Venue	U.S. Code (OLRC)	Current
Ind. DNR v. Newton County, 802 N.E.2d 430 (Ind. 2004)	Home Rule limits; *Hobble* test	Opinion text	Clean; remains the leading Home Rule Act decision
Hobble ex rel. Hobble v. Basham, 575 N.E.2d 693 (Ind. Ct. App. 1991)	Frustration test; severability	Citation record; quoted in *Newton County*	Clean; quoted and applied in *Newton County*
Town of Avon v. W. Cent. Conservancy Dist., 957 N.E.2d 598	Adverse; distinguished	Opinion located; holding	Clean

Authority	Cited for	Verified against	Subsequent history and treatment (as of Nov. 7, 2026)
(Ind. 2011)		confirmed	
City of Carmel v. Duke Energy Ind., LLC, 234 N.E.3d 816 (Ind. 2024)	State-agency expertise	Opinion text; Ind. Sup. Ct. 2023–24 Annual Report	Clean; companion case *Duke Energy Ind., LLC v. City of Noblesville*, 234 N.E.3d 173 (Ind. 2024) (ordinances presumptively apply to utilities; IURC decides unreasonable interference)
City of Gary ex rel. King v. Smith & Wesson Corp., 801 N.E.2d 1222 (Ind. 2003)	Adverse; distinguished	Citation record	Holding not overruled. Litigation ended by statute: IC 34-12-3.5-3 (P.L. 170-2024) reserved such suits to the State; *Smith & Wesson Corp. v. City of Gary*, No. 24A-CT-2381 (Ind. Ct. App. Dec. 29, 2025) (reversing; remanding with instructions to dismiss; city is "an agent subject to the control of the State"), *trans. denied* (Ind. May 21, 2026) (4–1, Goff, J., dissenting)
Legato Vapors, LLC v. Cook, 847 F.3d 825 (7th Cir. 2017)	Extraterritorial reach	Opinion text	Clean; not revisited by the Seventh Circuit after *Ross*
Midwest Title Loans, Inc. v. Mills, 593 F.3d 660 (7th Cir. 2010)	Extraterritorial reach	Citation record; quoted in *Legato*	Good law in the Seventh Circuit. Circuit split: *Quik Payday, Inc. v. Stork*, 549 F.3d 1302 (10th Cir. 2008) (contra, internet payday lender); criticized by an E.D. Pa. district court (2021–22) for reliance on *Quill*, overruled by *Wayfair* (2018). Cite with *Legato*, not alone
Park Pet Shop, Inc. v. City of Chicago, 872 F.3d 495 (7th Cir. 2017)	Adverse (local ordinance upheld); *Pike* framing	Citation record	Clean
Nat'l Pork Producers	Limits on	Citation record	Controlling; see Part IV.G

Authority	Cited for	Verified against	Subsequent history and treatment (as of Nov. 7, 2026)
Council v. Ross, 598 U.S. 356 (2023)	extraterritoriality		
Am. Libraries Ass'n v. Pataki, 969 F. Supp. 160 (S.D.N.Y. 1997)	Internet and the Commerce Clause	Citation record	Not overruled; confined by *Ford Motor Co. v. Tex. Dep't of Transp.*, 264 F.3d 493, 505 (5th Cir. 2001), to laws that "directly regulate internet activities"; weaker after *Ross*
ACLU v. Johnson, 194 F.3d 1149 (10th Cir. 1999); *PSINet, Inc. v. Chapman*, 362 F.3d 227 (4th Cir. 2004); *Am. Booksellers Found. v. Dean*, 342 F.3d 96 (2d Cir. 2003)	Internet and the Commerce Clause	Citation records	Clean; extraterritoriality reasoning weaker after *Ross*
Junger v. Daley, 209 F.3d 481 (6th Cir. 2000); *Universal City Studios, Inc. v. Corley*, 273 F.3d 429 (2d Cir. 2001)	Code as speech	Citation records	Clean
Bernstein v. U.S. Dep't of State, 922 F. Supp. 1426 (N.D. Cal. 1996)	Code as speech	Citation record	*Aff'd sub nom. Bernstein v. U.S. Dep't of Justice*, 176 F.3d 1132 (9th Cir.), *reh'g en banc granted and opinion withdrawn*, 192 F.3d 1308 (9th Cir. 1999); case later mooted. Persuasive only; always cite with full history
Bell v. Keating, 697 F.3d 445 (7th Cir. 2012)	Vagueness, municipal ordinance	Citation record	Clean
Mays v. Dart, 974 F.3d 810 (7th Cir. 2020); *Ill. Republican Party v. Pritzker*, 973 F.3d 760 (7th Cir. 2020); *Speech First, Inc. v. Killeen*, 968 F.3d 628 (7th Cir.	Preliminary-injunction standard	Citation records	Clean; *Pritzker* states the current likelihood-of-success showing ("more than a mere possibility") and is cited alongside *Mays*

Authority	Cited for	Verified against	Subsequent history and treatment (as of Nov. 7, 2026)
2020); *Cassell v. Snyders*, 990 F.3d 539 (7th Cir. 2021); *Higher Soc'y of Ind. v. Tippecanoe County*, 858 F.3d 1113 (7th Cir. 2017); *Joelner v. Vill. of Washington Park*, 378 F.3d 613 (7th Cir. 2004)			
Ezell v. City of Chicago, 651 F.3d 684 (7th Cir. 2011)	Irreparable harm for constitutional violations	Citation record	Clean; routinely cited in the Seventh Circuit for the proposition that a constitutional violation is presumptively irreparable
Kolender v. Lawson, 461 U.S. 352 (1983); *Grayned v. City of Rockford*, 408 U.S. 104 (1972); *FCC v. Fox Television Stations*, 567 U.S. 239 (2012)	Vagueness	Settled citations	Clean
Pike v. Bruce Church, 397 U.S. 137 (1970); *Healy v. Beer Inst.*, 491 U.S. 324 (1989); *Or. Waste Sys., Inc. v. Dep't of Envtl. Quality*, 511 U.S. 93 (1994); *Maine v. Taylor*, 477 U.S. 131 (1986); *Dennis v. Higgins*, 498 U.S. 439 (1991)	Commerce Clause	Settled citations	*Healy*'s extraterritoriality strand limited by *Ross*; its anti-discrimination and inconsistent-regulation language untouched. Others clean
Susan B. Anthony List v. Driehaus, 573 U.S. 149 (2014); *Monell*, 436 U.S. 658 (1978); *Mt. Healthy*, 429 U.S. 274 (1977); *Winter v. NRDC*, 555 U.S. 7 (2008); *Elrod v. Burns*, 427 U.S. 347 (1976);	Standing, § 1983, injunction standards, immunity	Settled citations; pin cites to be confirmed by counsel	Clean

Authority	Cited for	Verified against	Subsequent history and treatment (as of Nov. 7, 2026)
Hunt v. Wash. State Apple Advert. Comm'n, 432 U.S. 333 (1977); *Bogan v. Scott-Harris*, 523 U.S. 44 (1998); *Reno v. ACLU*, 521 U.S. 844 (1997)			
EO 14179, 90 Fed. Reg. 8741; EO 14318, 90 Fed. Reg. 35385; EO 14319, 90 Fed. Reg. 35389; EO 14320, 90 Fed. Reg. 35393; EO 14365, 90 Fed. Reg. 58499	Federal policy context	Federal Register; OLRC notes to 15 U.S.C. § 9401	In force; no preemptive effect of their own
DOJ, AI Litigation Task Force memorandum (Jan. 9, 2026)	Federal enforcement posture	justice.gov	In force
X. AI LLC v. Weiser, No. 1:26-cv-01515 (D. Colo. filed Apr. 9, 2026)	Only Task Force action to date	CourtListener docket	Pending; enforcement stayed by agreement Apr. 27, 2026