



Data Center Policy Framework

July 20, 2026



Council directed staff on February 17, 2026 to develop a proposed Data Center Policy Framework

- **Prioritize community engagement**, utility providers, local, state and regional government in implementation considerations.
- Evaluate **long-term impacts** on infrastructure and utilities.
- Also directed the City Attorney to conduct a legal analysis of 380 agreements with data centers to identify best practices, lessons learned, and opportunities to develop a new framework.
- This work is also part of the **City's Climate Action Plan**, which identifies the need to evaluate data center policy through environmental, community, and economic development considerations.

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What it does not mean

It does not direct staff to reconsider, reopen, cancel, or void any existing agreement.

Council Directed Actions – Data Center Policy Framework

- **February 17, 2026.** Develop a Data Center Policy Framework
- **April 28, 2026.** Amend the City of El Paso's 90th Session State Legislative Agenda, as well as the 119th Congress Federal Legislative Agenda, to include advocacy support for policy proposals related to data center incentives and regulatory frameworks
- **May 26, 2026.** Adopt as a general policy direction of the City of El Paso that future development of hyperscale data centers should not be actively recruited, pursued, or incentivized due to their misalignment with the City's long-term sustainability and infrastructure resilience goals
- **June 23, 2026.** Amend the City of El Paso's 90th Session State Legislative Agenda to include advocacy support for policy related to protecting residential ratepayers from utility costs of data centers as proposed by Governor Greg Abbott's letter to the Public Utility Commission of Texas (PUC) and Electric Reliability Council of Texas (ERCOT) on June 10, 2026.

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DATA CENTER FRAMEWORK

- Timeline

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1

COORDINATION
Weeks 1-4

2

**PUBLIC
DIALOGUE**
Weeks 5-6

3

**FRAMEWORK
DEVELOPMENT**
Weeks 6-20

4

OUR APPROACH

Framework Development

Creating a predictable framework for transparency

Public Information Hub

<https://www.elpasotexas.gov/data-centers>

Research

Evaluating regional and national cases

Stakeholder Convergence

Bringing regional governments and utilities to the table

Community Survey + Draft input

Integration with Climate Action Plan

Community Engagement

Listening to the concerns, ideas, and priorities of El Pasoans

Exploring Community Benefit Agreements (CBAs)

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Actionable Community Input

MAIN TAKEAWAYS

- Environmental: water, air quality, noise, health, wildlife concerns
- Economic: impact on utilities costs, no tax incentives for data centers, not enough long-term jobs
- Avoid future data centers

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Six Community Meetings

- **542 attendees**
- **2,300+ comments**

274 responses to online survey

162 comments to draft

6

Policy recommendations

Zoning

- Code amendments
- Special permit

Environment

- Studies
- Consumption data

Economic

- Incentives
- Land sale

Advocacy

- State and Federal

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Zoning Authority

- Zoning authority given to home-rule municipalities through state law
- Texas Local Government Code (TLGC) 211 governs zoning parameters
- Council has the authority to regulate zoning requirements within the city limits
- “By-right” vs. Special Permit
 - By-right (permitted): no additional notification/zoning approvals required
 - Special Permit allows for stronger awareness, specific use identified, notification requirements for CPC and City Council

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Policy Recommendations

Zoning reclassification and tiers

Objective: Remove hyperscale facilities from "by right" status to establish rigorous regulatory oversight.

Tiered framework (Title 20 modification):

- **Type 1 (Small):** Up to 50,000 sq ft and <5 MW peak load. Permitted "by right" in C-4, M-1, M-2, and M-3 districts.
- **Type 2 (Medium):** 50,001 to 250,000 sq ft and/or 5 MW to 20 MW peak load. Requires a Special Permit in M-1, M-2, and M-3, CPC review, and City Council approval.
- **Type 3 (Hyperscale):** Greater than 250,000 sq ft and/or > 20 MW peak load. Requires a Special Permit in M-1, M-2, and M-3, CPC review, City Council approval, and requires supplemental use regulations

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Policy Recommendations

Supplemental regulations

Objective: Establish robust boundaries to protect El Paso community and open spaces.

Public Transparency (Tier 2 and 3)

- Prohibited in all other zoning districts; increases the public notification boundary from **300 feet to 500 feet** for all hyperscale special permit applications

Proximity rules (Tier 3)

- Requires a mandatory **300 foot buffer** from all residential uses, zoning districts, parks, schools, daycares, hospitals, churches and dedicated open spaces.
- Imposes a **100 foot building and equipment setback** from all property lines.

Noise mitigation (Tier 3)

- Mandates a **30 foot perimeter landscape buffer** featuring a double row of trees to provide visual screening and sound attenuation.
- Requires equipment (including, but not limited to, backup generators and water treatment systems) to be **fully enclosed** or walled to control noise.

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Policy Recommendations

Supplemental regulations– Impact studies–Tier 3

Objective: Requiring comprehensive technical validation prior to permit filing.

- **Utility Impact Assessment:** Verifiable data on projected water/energy consumption, peak electrical load, and specified energy sources.
- **Thermal & Wastewater Mitigation Plan:** Analysis of heat impacts and a detailed plan to address wastewater, including mandatory private pre-treatment or recycling stations.
- **Acoustic & Lighting Compliance:** Formally certified engineering studies proving post-development noise will not exceed El Paso City Code 9.40 at the property line, and lighting complies with Outdoor Lighting Code 18.18.
- **Site & Ecological Screening:** Mandatory mapping to identify and protect local ecosystems.

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Policy Recommendations

Disclosure- Operations

Objective: Ensure long-term environmental accountability through mandatory reporting and enforcement mechanisms.

- **Disclosure Plan:**

- Requires developers to provide access to the City to utility consumption and emissions data in alignment with state and federal regulations

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Policy Recommendations

Environmental – Utility efficiency

Objective: Conserve El Paso’s natural resources and maximize grid stability.

- **Cooling:**

- Requires most efficient cooling systems and water technologies, including wastewater operations.

- **Collaboration:**

- Coordinates directly with El Paso Electric (EPE) and El Paso Water (EPWater) to promote best technologies.

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Policy Recommendations

Economic – Local incentives

Objective: Focused economic incentives.

Complete Incentive Elimination:

- Enforces the policy direction approved by City Council on May 26, 2026, to eliminate local subsidies for hyperscale facilities.
- Explicitly prohibits the use of Chapter 380 agreements, local tax abatements, tax rebates, public financing assistance, and economic development grants.

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Policy Recommendations

Economic – Cost protection and land sale

Objective: Protect El Paso ratepayers from infrastructure cost-shifting.

Cost shifting

- Demonstrate that 100% of costs for transmission, distribution, substations, or generation capacity additions, or any water-related infrastructure, required to serve a data center load must be paid by the developer.
- Protects from utility cost recovery from non-participating residential or business customers at any point during the life of the assets.

Land sale

- Requires a pause on all public land sales designated for hyperscale data center use.
- Maintains the hold until this comprehensive Policy Framework and associated code modifications are adopted by the City Council.

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Policy Recommendations

Economic (land sale) – Parent Company

Objective: Eliminate risk from corporate shell entities and safeguard the city against stranded asset liabilities.

Enforcement Mandate:

- Requires that all infrastructure agreements, CBAs, and development contracts disclose the ultimate parent corporation rather than a localized LLC or subsidiary.

Risk Mitigation:

- Secures chain of enforcement to prevent stranded utility infrastructure costs if a facility is decommissioned or fails to fully materialize.
- Guarantees long-term enforcement of local environmental performance and fiscal obligations.

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Policy Recommendations

Community Benefits Agreement

Objective: Secure legally binding commitments that yield direct, measurable enhancements for El Paso neighborhoods.

CBA

- Explore mechanisms for the use of a CBA
- Goals: Improve air quality and health; drive economic prosperity; ensure water and energy security

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Policy Recommendations

Advocacy

Objective: Advocate for and insulate non-ERCOT, vertically integrated utility markets from large-load systemic risks.

90th Session

- Expansion of Ratepayer Protections: Advocate to expand Senate Bill 6 financial security and infrastructure cost-responsibility rules to protect non-ERCOT service territories like El Paso.
- Amend legislative agendas.
- Track bills related to data centers and large loads.

Federal

- Track bills related to cost-shifting, aggregated, non-confidential data access regarding grid interconnection queues and large-load demand projections.

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Council requested action

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To approve a resolution for the adoption of the Data Center Policy Framework.

Data Center Policy Framework

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