



# HILLARY HICKLAND

TEXAS STATE REPRESENTATIVE ♦ DISTRICT 55

May 15, 2026

Dear Members of the Temple City Council,

I care deeply about my community and the people I have the privilege of serving. Because of that, I believe it is important that discussions surrounding the proposed data centers in Temple should be grounded in accurate information and a clear understanding of the law. As elected officials, we rely heavily on our staff to provide factual and complete information to help guide us on important votes and decisions. For that reason, I believe it is important to clarify some of the statements made by the city manager during the May 7, 2026 city council meeting.

First and foremost, the Texas Constitution grants broad authority to home-rule cities like the City of Temple. Since home-rule cities operate under their own charter, they generally have the authority to take actions that are not expressly prohibited by state law.

It is also important to clarify the purpose of the Texas Regulatory Consistency Act, the preemption bill passed during the 88<sup>th</sup> Legislative Session was not to strip cities of all authority, but rather to prevent municipalities from adopting burdensome regulations in areas where state law had already established clear standards or prohibitions. To my knowledge, no provision of that legislation specifically applies to data center development projects.

One statement made during the meeting that I believe warrants additional clarification involved the city's authority to consider a moratorium. Moratoriums are a tool municipalities can use to temporarily pause certain developments while the city gathers information, evaluates infrastructure concerns, or studies potential impact to public health, safety, and welfare.

During the most recent legislative session, House Bill 2559 established notice and hearing requirements that municipalities must follow before adopting a moratorium. The bill did NOT eliminate a city's ability pursue a moratorium altogether, rather, it implemented procedural transparency requirements.

During the May 7<sup>th</sup> meeting, the city manager stated:

*"But even if you decided that a moratorium was necessary, you couldn't stop the current proposals because they're already...the, the notice has...the state doesn't allow that. There's a process that has to be followed and the state process doesn't allow for that."*

Texas law does not specify at what point in project's development timeline the moratorium process could begin. Furthermore, after consulting with one of our Legislative Council attorneys, I am not aware of any statutory provision that would prohibit the city from initiating the moratorium process at this stage of Rowan's proposed development.

At any time, the city could choose to set this process in motion, schedule hearings, and gather information from concerned residents and subject matter experts.



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Under state law, a city, by a three-fourths vote of the governing body, may adopt a moratorium only when it can support the action with written findings, based on reasonably available evidence, demonstrating one of three justifiable grounds:

- a shortage of essential public facilities;
- a significant need for public facilities to prevent overcapacity or protect public health, safety, and welfare; or
- the need for new or amended commercial development regulations to prevent harm to public health, safety, or welfare.

While the new notice requirements may lengthen the process, they do not constitute an outright prohibition on a city pursuing a moratorium like was stated in the public meeting.

In an email to my Chief of Staff, the city manager wrote:

*“For example, because of laws adopted by the State Legislature, Cities generally cannot: Impose moratoriums tied to broader state-regulated policy areas such as electricity.”*

Again, the Texas Constitution grants broad authority to home-rule cities like Temple. Additionally, the Texas Regulatory Consistency Act of 2023 does not contain preemptions within the Utilities Code, where laws governing electricity are found. With that in mind, it remains unclear what specific state laws are being referenced to support the claim that the city lacks authority to issue a moratorium based on electricity-related concerns. In fact, the same Legislative Council attorney we consulted regarding the moratorium process was unable to identify supporting statutes that substantiate this argument.

Another point raised during the meeting was:

*“Cities generally cannot though, prohibit a lawful land use citywide. So what you cannot do is say we do not want this use in our city at all. The State of Texas does not allow you to do that one of the most common ways that people remember this or learn this is things like sexually oriented businesses. So, a lot of cities do not want to have strip clubs in their community. But the State of Texas does not allow a city to universally say you cannot have a certain use within your community. You have to allow it somewhere in your community. You can say what zoning use it goes in, but you can't all out ban it. You can't apply arbitrary or discriminatory standards when you're zoning, and you can't adopt regulations that are so restrictive that they essentially function as a de facto ban. So if it is an otherwise lawful use, whether you like it or not, you have to allow it somewhere within your community.”*

While it is true that cities cannot outright prohibit lawful businesses from operating within their jurisdiction, home-rule cities still retain broad authority to regulate businesses through zoning, permitting, and licensing requirements. Section 215.075 of the Texas Local Government Code specifically authorizes municipalities to license lawful businesses or occupations that are subject to the city's police powers. Additionally, Chapter 243 of the Local Government Code allows municipalities to regulate sexually oriented businesses, the very type of business referenced during the May 7<sup>th</sup> meeting. Temple's regulations for sexually oriented businesses state that their purpose is to “regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent a concentration of sexually oriented businesses within the city.”



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These examples demonstrate an important point: while a city may not be able to impose an outright ban on a lawful business, it does have the ability to adopt reasonable regulations addressing location, operational standards, and compatibility with the surrounding community. Those same regulatory tools could have been considered and implemented in relation to data center development in Temple.

I understand this is a sensitive issue and that there is a great deal at stake for the community, however, it is unfair to place the blame on the state when municipalities have several tools available under existing law to address growth, infrastructure concerns, and development impacts at the local level. Residents have consistently expressed concerns to the council regarding environmental unknowns, potential water contamination, and the availability of reliable energy resources — all of which could serve as justifiable grounds for a moratorium. I respectfully ask that you take their concerns into serious consideration as you continue to move through this process.

Please do not hesitate to give me a call if you have any questions or would like to discuss this letter further.

Yours for Texas,

Hillary Hickland  
State Representative  
House District 55