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WELLS COUNTY Recorded: 1/6/2026 at 3:30 PM

WELLS COUNTY ZONING ORDINANCE (WCZO)

ARTICLE 14 – DATA CENTERS

DATED 2026

14 ARTICLE 14 DATA CENTERS

A data center facility may be permitted in an Agricultural District upon approval as a special use, provided the criteria and submittal requirements are met.

14.1 DATA CENTER FACILITIES

14.1.1 Purpose

Data centers are intensive land uses that can consume large quantities of water and electricity. Buildings often include industrial HVAC systems or water cooling/storage systems to prevent computer servers from overheating. Such systems commonly generate continuous sound that can spread across property lines. The low-frequency sounds emitted by data centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier. Long-term exposure to noise impacts the health of Wells County residents. This Chapter is adopted to allow data centers in appropriate locations in Wells County and minimize the potential off-site impacts of development to protect public health, safety, and the general welfare of Wells County residents.

14.1.2 Definitions

- 14.1.2.1 "Data Center" means a building, structure, complex or group of buildings and/or structures, facility, or dedicated space within a building, structure, complex, or facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers, applications, appliances, services, and other associated components or facilities. Associated components and facilities may also include air handlers, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. This definition also includes cryptocurrency mining, which involves the use of blockchain technology to verify and secure cryptocurrency transactions, as the terms "cryptocurrency", "cryptocurrency mining", "blockchain", and "blockchain technology" are defined by any applicable State law or, if no applicable State law, by generally accepted industry standards.
- 14.1.2.2 "Non-Participating Primary Residence" means a Primary Residence on a Non-Participating Parcel.
- 14.1.2.3 "Non-Participating Parcel" means a parcel of real estate that is not a participating parcel.



14.1.2.4 "Participating Primary Residence" means a Primary Residence on a Participating Parcel.

14.1.2.5 "Participating Parcel" means a parcel of real estate on which any data center facility will be constructed, or for which a participation agreement has been executed.

14.1.3 Permitting

14.1.3.1 The installation or construction of a data center, or any modification to a lawfully existing data center beyond routine maintenance, requires a Conditional Use Permit. Installation or construction of a data center, or any modifications to a lawfully existing data center beyond routine maintenance, also requires a Wells County Building Permit obtained from the County Planner.

14.1.3.2 Fees shall be 10% of the estimated total cost of the project or as negotiated.

14.1.4 Application Requirements

14.1.4.1 The application for the installation or construction of a data center, or for modifications to a lawfully existing data center beyond routine maintenance, shall follow the application procedures for Conditional Use Permits and any other procedures as may be required by this Ordinance for data centers, such as zoning map amendments, platting, or variances. In addition, applicants shall include the following:

14.1.4.1a Applicant name(s) and contact information. The applicant must also identify on the application, if different than the applicant, the record owner of the property, the occupant or lessee of the property, and the operator of the data center.

14.1.4.1b A narrative describing the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.

14.1.4.1c A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.

14.1.4.1d A site plan, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.

14.1.4.1e A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious

institution or structures, and public parks located within on (1) mile of the exterior boundaries of the property where the data center will be located.

14.1.4.1f All application fees, including the required fees for a Conditional Use Permit and building permits, in the amount determined by the Planning and Zoning Commission.

14.1.4.1g Copies of signed permits or other documentation that indicates compliance with all applicable State and Federal laws, statutes, rules, regulatory standards, including but not limited to the North Dakota State Electrical Board and the North Dakota State Electrical Code, and any amendments thereto.

14.1.4.1h Copy of the signed electrical power purchase agreement.

14.1.4.1i Financial security for the following:

- a. Financial security for maintenance of the data center, as fully constructed and operational or, if the project only involves modifications to a lawfully existing data center beyond routine maintenance as permitted by this Ordinance, financial security for maintenance of the lawfully existing data center as modified. The financial security shall be in the amount of 125% of the estimated cost to maintain the data center, as fully constructed and operational, or as modified, as determined by the applicant's engineer, who must be a State of North Dakota registered engineer, with such estimated costs subject to review and approval by the Wells County Planning and Zoning Commission.
- b. Financial security for reclamation and restoration of any data center and the property on which the data center is located or, if the project only involves modifications to a lawfully existing data center beyond routine maintenance as permitted by this Ordinance, financial security for reclamation and restoration of the property on which the data center as modified is located. Reclamation and restoration shall include, but is not limited to, the removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and the removal and disposal of all other facilities, structures, equipment and materials on or under the property. The financial security shall be in the amount of 125% of the estimated cost to reclaim and restore property on which the data center, or data center as modified, is located as determined by the applicant's engineer, who must be a State of North Dakota registered engineer, with such estimated costs subject to review and approval of the Wells County Zoning Commission.



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- c. Any financial security provided by the applicant which is required by this Chapter shall be subject to review and approval by the County and be in the form of one or more of the following:
 - 1. An irrevocable letter of credit issued by the FDIC insured financial institution authorized to do business in the State of North Dakota to be effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County;
 - 2. A surety bond which is effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County; and/or
 - 3. Cash in escrow to be held in trust by Wells County effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and continuing to the date when full reclamation and restoration is complete as approved by the County.
- d. The financial security required above shall be provided to Wells County prior to commencement of any work to install and/or construct the data center, or to modify a lawfully existing data center beyond routine maintenance, but no later than the date determined by the Board of County Commissioners in approving the data center or in approving the modifications to a lawfully existing data center beyond routine maintenance.

14.1.4.1j Other relevant studies, reports, certifications, or approvals as may be required by Wells County to ensure compliance with this Chapter and this Ordinance.

14.1.5 Design Standards

14.1.5a Separation from sensitive properties.

Data centers shall be set back at least 1 mile from all participating and non-participating primary residences, schools, churches, synagogues, and other similar religious institution or structures, and public parks as measured from the nearest property line of any of these sensitive properties to the data center's exterior property lines.



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14.1.5b Separation from other data centers.

New data centers shall be set back at least three (3) miles from any lawfully existing data center.

14.1.5c Height.

Height of Structures shall be determined by the Wells County Planning & Zoning board in accordance with the North Dakota State Building Code, federal guidelines and recommendations by local fire departments.

14.1.5d Electrical Wiring.

All electrical wiring shall be buried underground, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all electrical wiring shall comply with the North Dakota State Electrical Board, and any of its rules and regulations.

14.1.5e Security fencing.

A secured chain link, solid wood, or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility.

Except as otherwise specifically provided in other codes and ordinances of the County, the following regulations shall apply to the placement and construction of fences, landscaping, and other visual obstructions at intersections:

- A. No fence shall be constructed which will constitute a traffic hazard.
- B. No person shall erect or maintain any fence which will be hazardous or dangerous to persons or animals, or which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation, or any fence, which shall adversely affect the public health, safety and welfare.

14.1.5f Buffering and screening.

Landscaped buffers shall be required around the entire perimeter of the property where the data center is located.

Screening and buffering shall comply with the following requirements:

- A. Screening fences and walls shall not be constructed of corrugated metal, corrugated fiberglass, sheet metal, chain link, or wire mesh and shall be

designed to avoid obstructing views, restricting light and air, or creating any hazards. Attractive, durable materials, compatible with architecture of adjacent buildings shall be used.

- B. Monotonous linear designs are discouraged. Articulation of visual characteristics (such as but not limited to change in height, species, different materials, offsets) is encouraged.
- C. Screening wall or fence shall have a minimum height of six (6) feet above the finished surface of the area it is located on.
- D. The landscape buffer strip shall not include any paved area, except pedestrian sidewalks or trails that cross the landscape strip.
- E. Deciduous or evergreen trees within the buffer strip shall have a minimum height of six (6) feet at maturity.
- F. The buffer may be comprised of a combination of berms, trees, stones, shrubs, and fences made of natural looking materials.

14.1.5g Exterior Lighting Standards.

The intent of this section is to preserve, protect, and enhance the nighttime enjoyment of any and all properties using appropriate lighting. Individual fixtures and lighting systems shall be designed, constructed, and installed to control glare and minimize obstructive lighting into adjoining properties and vehicular traffic along highways, county roads and other public roads, and to reduce the degradation of the nighttime visual environment. The following shall also apply to exterior lighting:

- A. Exterior lighting shall be fully shielded and directed downward and shall take measures to prevent off-site glaring and minimize light pollution;
- B. The intensity of lighting shall not exceed ten foot-candles within any site;
- C. Wall-mounted lighting shall be cut off, down directional with a maximum of two hundred fifty watts per fixture;
- D. Street lighting and/or interior parking lot lighting shall not exceed twenty-five feet in height; and
- E. The light poles used shall not be constructed of a wood material similar to a common electric or telephone pole.



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14.1.5h Accessory structures and appurtenances.

All accessory structures or appurtenances, including those constructed for noise mitigation, shall be designed in a manner that is complementary with the primary building(s) and shall be finished in a non-obtrusive color.

14.1.5i Road Use Arrangements

Prior to construction, the applicant shall make satisfactory arrangements (including obtaining permits) for road use, access road intersections, maintenance and repair of damages with governmental jurisdiction with authority over each road. The applicant shall notify the County Planner of such arrangements upon request.

14.1.5j Overweight Load Permits

The applicant is responsible for abiding by the state and local overweight load permitting processes in accordance with NDCC Chapter 39-12. A special use permit issued under this ordinance to erect a data center facility does not negate a hauler's obligation to obtain overweight load permits prior to hauling.

14.1.5k Approach Permits

The applicant is responsible for obtaining an approach permit from the County Road foreman or the affected township for any new or reconstructed approach.

14.1.5l Road Repair (Public Roads)

Any road damage caused by the applicant, its independent contractor, employee, agent, contractor, or subcontractor shall be promptly repaired at the applicant's expense to current standards set out in the North Dakota Department of Transportation's (NDDOT) Standard Specifications for Road and Bridge Construction.

If it is reasonably foreseeable that continued trips will make prompt repair to this standard unreasonable, intermediary measures must be taken by the applicant, if approved by the political subdivision in charge of the road, to ensure the public road remains passable and useable as has been the tradition in the community. Final repairs to these standards must be made promptly after the completion of the construction of the data center.

14.1.5m. Development Agreement.

The applicant and, if different than the applicant, the record owner of the



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property, the occupant or lessee of the property, and/or the operator of the data center and of the property on which the data center will be located, as determined appropriate by the County, must sign a development agreement which shall include provisions related to, but are not limited to, the posting and use of financial security, exterior and interior road construction or improvement, road maintenance, improvements related to storm drainage, erosion control, grading, and drainage, reclamation and restoration, and/or any other condition imposed by this Chapter, this Ordinance, the Planning and Zoning Commission, or the Board of County Commissions in approving installation of construction of the data center or modifications to a lawfully existing data center beyond routine maintenance.

14.1.6 Emergency Management

14.1.6a Disclosure

Qualifications and experience from selected developers shall be provided including disclosure of fires or other hazards at facilities. Safety testing and failure modes analysis data from selected developers and manufacturers shall be provided.

14.1.6b Liquid Containment and Spill Control Standards

- A. A Spill Prevention, Control, and Countermeasure (SPCC) plan must be implemented to prevent environmental contamination in the event of accidental spills or leaks.
- B. The amount of gallons of fuel (diesel, gasoline, propane or other) allowed on site will be determined during the permitting process.
- C. Secondary containment systems must be installed to prevent leaks or spills from contaminating the environment.
- D. The containment system must have a minimum spill capacity of one hundred and ten (110) percent of the largest battery module and/or any other onsite fuel storage.
- E. Non-porous, chemical-resistant materials should be used for containment structures.
 - 1. A Hazard Mitigation Analysis (HMA) must be conducted to identify potential liquid hazards.
 - 2. Leak detection systems must be installed to monitor electrolyte spills or coolant leaks.
 - 3. Spill kits containing absorbents, neutralizers, and personal protective equipment (PPE) must be readily available on-site.

4. Proper drainage systems must be in place to prevent contaminated water runoff.
5. Regulated disposal procedures must be followed for spilled hazardous liquids, in compliance with EPA guidelines.
6. An emergency spill response plan must be integrated into the overall site safety plan.

14.1.6c Emergency Response Standards.

- A. All installations must comply with NFPA 75, which provide the minimum requirements for the protection of IT equipment and systems.
- B. Fire suppression systems must be installed, including automated extinguishing systems, fire-resistant enclosures, and emergency ventilation. They must include gas-based suppression (e.g., FM-200 or Novec 1230) or water mist systems where appropriate. Such systems must not rely on halon or other toxic fire suppression agents unless deemed necessary and are replaced with more environmentally friendly alternatives where possible.
- C. Emergency lighting and signage must be installed for visibility during power failures.
- D. Firefighter access and intervention points should be clearly marked and accessible
- E. Facility-specific emergency response plans must be developed and shared with local fire departments.
- F. Fire responders must receive training on data center-specific fire risks and suppression methods.
- G. Manual and remote shutdown mechanisms must be available for rapid system deactivation.
- H. A formal response from the local fire department must be obtained, confirming their awareness of installations, including associated fire risks, emergency access points, and specific response strategies. This confirmation must be renewed annually, with 30-day notice provided before expiration. Additionally, the fire department should outline its emergency response mitigation measures, including training programs, equipment readiness, and procedural updates.
- I. The facility operator must be onsite for all emergency response operations.

14.1.6d Chemical, Battery and E-Waste Storage and Disposal

- A. Data centers using or storing hazardous chemicals, including fuel, coolants, refrigerants, and fire suppression agents, must store chemicals in compliance with Occupational Safety and Health Administration (OSHA) guidelines.
- B. Backup batteries (E.g., lithium-ion, lead-acid) must be stored in safe, properly ventilated areas.



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- C. All Batteries used on the premises must be regularly inspected for damage and replaced or recycled per Environmental Protection Agency (EPA) standards.
- D. Disposal of batteries must be done through certified e-waste recyclers, who are compliant with the Resource Conservation and Recovery Act (RCRA) guidelines and other state and federal regulations.
- E. E-waste must be tracked, recorded, and reported on an annual basis to local authorities.

14.1.6e Water Discharge

Data centers with cooling systems that discharge water into local water bodies must implement thermal pollution mitigation measures to prevent the release of heated water into rivers, lakes, or streams, ensuring the water discharge does not exceed regulatory temperature limits; use water recycling systems to reduce consumption and minimize environmental impact. Discharge must comply with State Department of Environmental Quality requirements.

14.1.7 Emergency Response Needs

14.1.7a The Data Processing Center Owner shall provide a copy of the project description site plan, and any other pertinent documentation and/or information to the Wells County Emergency Manager, local fire department(s), sheriff's office having jurisdiction, and any other local first responders organization(s). The Data Center Owner shall coordinate with such local entities in the development of an Emergency Response Plan and reviewed yearly.

14.1.7b The Emergency Response Plan shall include a description of the numbers, locations, and training of personnel necessary to respond to a worst-case emergency in Wells County.

14.1.7c The plan shall also include all Material Safety Data Sheets for all hazardous material and/or substances that are located within the Data Center and filed yearly with the State and with the County Emergency Manager.

14.1.7d All necessary training and equipment for a worst-case emergency in Wells County for local fire departments, sheriff's office, first responder organizations, and the Wells County Emergency Manager shall be paid for by the Data Center Owner.

14.1.7e The Emergency Response Plan shall be submitted to the Wells County Emergency Manager not less than sixty (60) days before construction is to begin.

14.1.7f The Emergency Response Plan shall include a list of all specialized response equipment showing the type and capability of said equipment, as well as the equipment's location. All response equipment shall be accessible by the Wells County Emergency Manager, local fire department(s), sheriff's office having jurisdiction, and any other local fire responder organization(s).



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14.1.8 Abandonment or Ceasing Operations

14.1.8a It is the responsibility of the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and the operator of the data center to notify Wells County in writing, at least six (6) months in advance, of the intent to abandon or cease operations of the data center. Any data center that is not operated for a continuous period of six (6) months shall automatically be considered abandoned, and the County may require the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and the operator of the data center to reclaim and restore the property within one hundred eighty (180) days after written notice to reclaim and restore the property from the County. Any such reclamation and restoration shall include, but is not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property. If the property is not fully reclaimed and restored as required by this Chapter and/or any Development Agreement within one hundred eighty (180) days after written notice from the County, the County may reclaim and restore the property, or cause the property to be reclaimed and restored, including, but not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property and recover costs directly from the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and/or the operator of the data center. The County may also, in its discretion, recover such costs, by access to and use of the financial security provided and on file for the data center, or by lien or special assessment, or any other remedy, authorized by law or the Development Agreement entered into under this Chapter. Nothing in this Chapter is intended to impose, or imposes, a mandatory obligation on the County to reclaim and restore the property.

14.2 Resolution for Data Centers

The following Resolution was introduced by Commissioner Danny Maxwell and seconded by Commissioner Brian Miller for adoption:

WHEREAS, the Wells County Planning Commission consisting of Stan Buxa, Danny Maxwell, Faye Schimelfenig, Warren Strand, Chad Ziegler, Daniel Stutlien, Robert Martin, and Jon Polries has drafted Article 14, Data Centers dated 2026, to be added to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder; and

WHEREAS, said Article 14 is designed to provide a regulatory framework for the siting, construction and operation of Data Centers in the County, subject to reasonable restrictions, which will preserve the

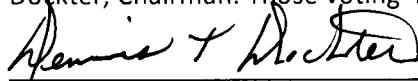
safety and well-being of the residents, while allowing equitable and orderly development of wind energy facilities; and

WHEREAS, the Wells County Planning Commission has approved Article 14, Data Centers dated 2026, to be added to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as document #195117 in the Office of the Wells County Recorder and recommends its adoption by the County Commission; and

WHEREAS, the Board of County Commissioners hereby adds Article 14, Data Centers dated 2026, to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder.

NOW, THEREFORE, BE IT RESOLVED, that the County Commission of Wells County hereby adopts Article 14, Data Centers dated 2026, to be added to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder on this 6th day of January, 2026.

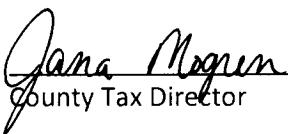
On vote being taken, those voting 'aye': Stan Buxa, Brian Miller, Bryan Lautt, Danny Maxwell and Dennis Dockter, Chairman. Those voting 'nay': None. The Chairman then declared the Resolution adopted.



Chairman

1-6-26

Date



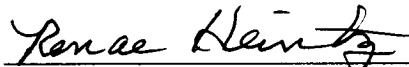
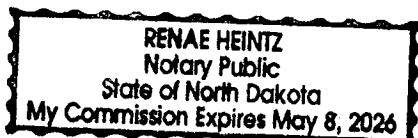
County Tax Director

1-6-26

Date

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF WELLS)

On this 6th day of January, 2026, personally appeared before me, a notary public within the aforesaid County and State, Dennis Dockter and Jana Mogren, to me personally known to be the Chairman of the Board of County Commissioners and the Tax Director, respectfully, of Wells county, and acknowledged to me that they executed the within instrument for and on behalf of Wells County.



Renae Heintz, Notary Public
Wells County, North Dakota



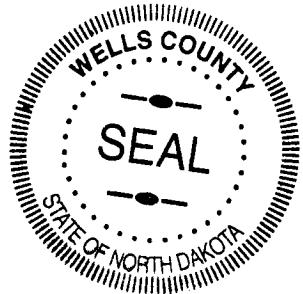
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STATE OF NORTH DAKOTA)
)
)ss.
COUNTY OF WELLS)

I, Jana Mogren, Tax Director in and for the County of Wells, State of North Dakota, acting as Secretary of the Wells County Planning Commission, do hereby certify that the above-entitled document is a true and correct original of the Article 14, Data Centers dated 2026, to be added to the Wells County Zoning Ordinance dated 2026 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder which was adopted by Wells County, North Dakota, January 6, 2026.

Witness my hand and official seal of Wells County, North Dakota, this 6th day of January, 2026.



Jana Mogren, Wells County Tax Director



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RECORDER'S OFFICE, WELLS COUNTY, ND 1/6/2026 3:30 PM
I certify that this instrument was filed for record this date
CARRIE K. KRAUSE, County Recorder

By Carrie K. Krause

Return To :WELLS COUNTY TAX DIRECTOR

JANA MOGREN
700 RAILWAY ST N DEPT 361
FESSENDEN ND 58438