

Section 317-A-15 of the Pennington County Zoning Ordinance (July 10, 2019)14. Post-Construction

Upon completion of construction of the project, the applicant shall supply an “as-built” ALTA survey indicating that the proposed facility comply with the setbacks in the permit within ninety (90) days.

15. Decommissioning:

To be provided at the time of Conditional Use Permit submittal.

- a. Cost Responsibility: The owner or operator of a project is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities. The decommissioning plan must clearly identify the responsible party.
- b. Useful Life: A project is presumed to be at the end of its useful life if the facility generates no electricity for a continuous period of twelve (12) months. The presumption may be rebutted by submitting to the Planning Commission for approval of a plan outlining the steps and schedule for returning the project to service within twelve (12) months of the submission.
- c. Decommissioning Period: The facility owner or operator must begin decommissioning a project facility within eight (8) months after the time the SES and SES facilities reaches the end of its useful life, as determined in 12(b). Decommissioning must be completed within eighteen (18) months after the facility or solar energy system reaches the end of its useful life.
- d. Decommissioning Plan: Prior to approval of a Conditional Use Permit for an USES facility, the facility owner or operator must file the following documents with the Planning Director: the estimated decommissioning cost; USES and for restoring each haul road, in current dollars at the time of the application, for the proposed facility; a decommissioning plan that describes how the facility owner will ensure that resources are available to pay for decommissioning the facility at the appropriate time. The Planning Commission will review a plan filed under this section and shall approve or disapprove the plan in conjunction with the Conditional Use Permit application. The Planning Commission or Planning Director may at any time require the owner or operator of a project to file a report describing how the project owner or operator is fulfilling this obligation.
- e. Decommissioning Requirements: To the extent possible, the site must be restored and reclaimed to the topography and topsoil quality that existed just prior to the beginning of the construction of the project. The landowner may request in writing that the access roads be retained. Decommissioning and site restoration, includes signing appropriate haul road agreements for the decommissioning process. Dismantling and removal of all USES-related equipment, foundations, buildings and ancillary equipment to a depth of forty-two (42) inches. Removal of

surface road material and restoration of the roads and USES sites to substantially the same physical condition that existed immediately before construction of the project.

- f. Financial Assurance: Before construction begins on the project, the facility owner shall provide to the Planning Department a certificate of insurance, including either a performance or surety bond, which covers the total cost to decommission the facility. The certificate of insurance shall be renewed and a copy submitted to the Planning Department each year the facility is in operation.
- g. Failure to Decommission: If the project facility owner or operator does not complete decommissioning, the Planning Commission may take such action, as may be necessary, to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement constitutes agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Planning Commission may take such action as may be necessary to decommission a project facility and seek additional expenditures necessary to do so from the facility owner.

16. Violation

It is unlawful for any person to construct, install, or operate a Solar Energy System that is not in compliance with this section or with any condition contained in a Building Permit issued pursuant to this section. Solar Energy System facilities installed prior to the adoption of this section are exempt.

B. WIND ENERGY SYSTEMS

1. Purpose

- a. The purpose of this section is to ensure that the placement, construction and modification of a Wind Energy System (WES) facility is consistent with the County's land use policies, to minimize the impact of WES facilities, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of such facilities, and to protect the health, safety, and welfare of Pennington County's citizens.

2. Federal, State, and Local Requirements

- a. All Wind Energy System (WES) facilities must meet or exceed standards and regulations of the Federal Aviation Administration (FAA) and South Dakota Statutes and any other agency of federal or state government with the authority to regulate WES facilities.