

**CITY OF SCANDIA
ORDINANCE NO.: 2023-03**

**AN ORDINANCE AMENDING THE SCANDIA UNIFIED DEVELOPMENT CODE
CHAPTER 153.200.010 REGARDING ZONING DISTRICTS ESTABLISHED TABLE
153.200.010-1, CHAPTER 153.200.040 REGARDING OVERLAY DISTRICTS,
CHAPTER 153.300.020 REGARDING TABLE OF USES TABLE 153.300.020-2,
CHAPTER 153.300.020 REGARDING TABLE OF USES TABLE 153.300.020-3,
CHAPTER 153.600.30 REGARDING DEFINITIONS**

The City Council of the City of Scandia, Washington County, Minnesota hereby ordains:

Section 1 Amendment. The City of Scandia Unified Development Code (“Development Code”, or “Code”), Chapter 153.200.010 Zoning Districts Established Table 153.200.010-1 Zoning Districts, District Type and Character Areas, shall be amended by adding the underlined text and deleting the stricken text as follows

District Type	Zoning District	Abbreviation
Base	Character Area: Agricultural Districts	
	<u>Solar Energy Systems Overlay District</u>	<u>SES-O</u>

Section 2 Amendment. The City of Scandia Unified Development Code (“Development Code”, or “Code”), Chapter 153.200.040 Overlay Districts shall be amended by adding the underlined text and deleting the stricken text as follows:

Subd. 1. Applicability of Overlay Districts. Certain lands within the City have unique or special environmental qualities that are zoned with additional regulations and standards per the objectives of the specific Overlay District. All lands and parcels in the City are designated with a Base Zone District as described in Section [153.200.030], and those portions of the property also contained within an Overlay District shall be regulated by the applicable standards identified in the subsequent Section or Chapter. The Overlay District areas are shown on the Official Zoning Map.

(A) Aggregate Mining Overlay District (AM-O). The AM-O District is established to identify the land and parcel areas where mineral deposits, primarily gravel, may be available for general use under the conditions and regulations of Chapter 154 of the City Code. Properties zoned AM-O are guided as Aggregate Resources in the Comprehensive Plan.

I. Lot Area, setbacks, and other dimensional requirements of the AM-O District are contained in Chapter 154.

- (B) Shoreland Management Overlay District (SM-O). The SM-O District is established consistent with the Minnesota Department of Natural Resources rules for Shoreland Management of designated public waters in the City. Properties zoned within the SM-O are guided for various land uses within the Comprehensive Plan.
- I. The Rural Residential Neighborhood (RR-N) Base Zoning District is established specifically to account for and manage, small lots and parcels within the SM-O area. Lot area and setback from OHWL is provided within the Dimensional Standards for this Base Zoning District. All other dimensional standards as described within Chapter 155 shall be applicable, and in the event of any discrepancy, the more restrictive regulation shall apply.
 - II. All other Base Zoning Districts reference the SM-O District standards in Chapter 155 of the City's Code of Ordinances, and standards stated within the SM-O shall apply.
- (C) Lower St. Croix River Corridor Overlay District (SCRD). The SCRD District is established consistent with the Minnesota Department of Natural Resources rules for properties within the SCRD. The City adopts by reference the Washington County Lower St. Croix River Bluffland and Shoreland Management Ordinance, as amended from time to time.
- I. The Rural Residential Neighborhood (RR-N) Base Zoning District is established specifically to account for and manage small lots and parcels within the SCRD area. Lot area, lot width and setback from OHWL is provided within the Dimensional Standards for this District. All other requirements and regulations of the SCRD shall be followed for any property within this designation. In the event of any discrepancy, the more restrictive regulation shall apply.
- (D) Floodplain Management Overlay District (FM-O). The FM-O District is established consistent with the rules and guidelines as applied by FEMA. Properties within the FM-O shall follow all rules and regulations as contained within Chapter 156 of the Code of Ordinances.
- (E) Solar Energy Systems Overlay District (SES-O). The SES-O District is established to identify the land and parcel areas where Distribution SES may be available for general use under the conditions and regulations of Chapter 153.300.030 Subd. 1 (BB).

Section 3 Amendment. The City of Scandia Unified Development Code (“Development Code”, or “Code”), Chapter 153.300.020 Table of Uses Table 153.300.020-2 Table of Uses, shall be amended by deleting the stricken text as follows:

BASE ZONING DISTRICTS										
	A-P	AG-C	RR-G	RR-N	V-N	V-C	V-HC	R-C	I-P	Use Specific Section Reference
Land Use	Agricultural Preserve	Agricultural Core	Rural Residential General	Rural Residential Neighborhood	Village Neighborhood	Village Center	Village Historic Core	Rural Commercial	Industrial Park	
Agricultural and Land Based Uses										
Solar Energy Systems—Distribution Scale (Distribution SES)		CUP						CUP	CUP	153.300.030 Subd. 1 (BB)

Section 4 Amendment. The City of Scandia Unified Development Code (“Development Code”, or “Code”), Chapter 153.300.020 Table of Uses Table 153.300.020-3. Table of Uses by Overlay Districts, shall be amended by adding the underlined text and deleting the stricken text as follows:

OVERLAY DISTRICT							
	SCRD-O	SM-O	AM-O	FW-O ¹	FF-O ²	<u>SES-O</u>	Use Specific Regulations Section Reference
Land Use	Lower St. Croix River Corridor Overlay	Shoreland Management Overlay	Aggregate Mining Overlay	Floodway Overlay	Flood Fringe Overlay	<u>Solar Energy Systems Overlay</u>	
Permitted Uses in Base Zoning District (Table 153.300.020-2), except as further regulated in this Table		P	P		P	<u>P</u>	Chapter 154, Chapter 156, Washington County Development Code Chapter 5
Conditionally Permitted Uses in Base Zoning District (Table 153.300.020-2), except as further regulated in this Table		CUP	CUP		CUP	<u>CUP</u>	Chapter 154, Chapter 156
Aggregate Mining and related activities			CUP				Chapter 154, Chapter 155, Chapter 156, Washington County Development Code Chapter 5
Agriculture, and accessory agricultural uses	P	P					Washington County Development Code Chapter 5
Single-family Residential, detached	P	P	P		P		Chapter 154, Chapter 155, Chapter 156, Washington County Development Code Chapter 5

OVERLAY DISTRICT							
	SCRD-O	SM-O	AM-O	FW-O ¹	FF-O ²	SES-O	Use Specific Regulations Section Reference
Accessory residential uses, including Accessory Dwelling Unit (ADU)		CUP					153.300.030 Subd. 1 (C); Chapter 156, Washington County Development Code Chapter 5
Open Space, Parks and Wildlife/Nature Preserves and Conservancy	P	P		P			Chapter 154, Chapter 156
Private and public boat launching ramps		CUP		P			Chapter 154, Chapter 156
Residential lawns, gardens and play areas (above OHWL)		P		P			Chapter 154, Chapter 156
Parking areas		P		P			Chapter 154, Chapter 156
Marinas, boat rentals, docs, piers, wharves, and water control structures		CUP		CUP			Chapter 154, Chapter 156
Railroads, streets, bridges, utility transmission lines and pipelines		P		CUP			Chapter 154, Chapter 156
Filling or grading	P/CUP	P/CUP	P/CUP	CUP	CUP		Chapter 154, Chapter 156
Structural works for flood control (levees, dikes and floodwalls)		CUP		CUP			Chapter 154, Chapter 156
Feedlots – new, any size							Chapter 154
Feedlots – expansion or resumption of existing							Chapter 154
Forest Management	P	P					Chapter 154
Forest Land Conversion							Chapter 154
Extractive use			P				Chapter 154
Mining of metallic minerals and peat							Chapter 154
Solar Energy Systems – Distribution Scale (Distribution SES)			CUP			CUP	153.300.030 Subd. 1 (BB)

Section 5 Amendment. The City of Scandia Unified Development Code (“Development Code”, or “Code”), Chapter 153.600.30 Definitions of Use, Standards and Terms shall be amended by adding the underlined text and deleting the stricken text as follows:

(251) **Scenic Canvas:** A scenic canvas shall be a perforated banner that provides immediate screening of a Distribution SES. The scenic canvas shall be made from materials that are designed to endure in exterior weather conditions. The perforated banner shall be attached to fencing, and shall have a natural vegetation or scenic views printed on the entire outward facing portion of the canvas to match the existing surroundings and vegetative screening of the Distribution SES.

Section 6 Amendment. The City of Scandia Unified Development Code (“Development Code”, or “Code”), Chapter 153.300.030 Subd. 1 (BB) Solar Energy System –

Distribution Scale (Distribution SES) shall be amended with the addition of the following:

- (BB) Solar Energy System – Distribution Scale (Distribution SES). ~~Distribution SES are allowed within the AG-C Zoning District and require a Conditional Use Permit.~~ As a principal use, a Distribution SES is permitted to the extent that it is the primary use on a property and operates to distribute energy to predominantly off-site users. Such system must comply with the following requirements:

I. Districts and Size Limits

- a. Within the SES-O Overlay District, Distribution SES are limited as a Conditional Use in the AG-C, R-C, and I-P zoning districts.
- b. *Distribution SES are prohibited in the following areas:*
 - i. Within the Lower St. Croix River Overlay District, ~~the within the Shoreland Management Overlay District as it applies to Recreational Development Lakes, and the Floodplain Overlay Districts, and the shoreland areas of Falls Creek.~~
 - ii. Within wetlands to the extent required by the Minnesota Wetlands Conservation Act, and within associated wetland setback areas as designated by the City of Scandia.
 - iii. All Base Zoning Districts not identified in Chapter 153.300.030 Subd. 1 (BB) I.a.
 - iv. Within any setbacks or buffer areas established within the Base Zoning District or applicable Overlay District.
- c. Distribution SES, within the Shoreland Management Overlay District, must also meet the following:
 - i. The site is within the shoreland of a Natural Environment Lake and all parcels adjacent to the Natural Environment Lake are zoned AG-C.
 - ii. No intensive vegetation clearing shall be allowed.
 - iii. No placement of structures and facilities on slopes over 12%.
 - iv. Treatment of stormwater runoff should be consistent with MPCA storm water manual guidance for solar projects.
 - v. Native vegetation must be planted on the site wherever practical to provide habitat.

- vi. Best management practices for managing erosion control are utilized.
- vii. Facility location and design must demonstrate that the facility will minimize impact on habitat and wildlife movement.

Compliance with these standards must be shown on submitted plans.

- d. Distribution SES uses are exempt from the Residential and Agricultural Accessory Structure standards regarding the square footage and number of structures permitted on a parcel, but must comply with the setback and lot coverage standards established in Section [153.200.030].

II. Permit Application

- a. *Existing Site Plans Required.* The applicant for a Distribution SES must submit a detailed site plan of existing conditions, showing site boundaries; existing access roads, driveways, and easements; existing structures; setbacks; surface water drainage patterns, floodplains, Shoreland districts, delineated wetlands, toe and top of bluffs, ordinary high water mark and other protected natural resources; existing vegetation, soil types, topography (2-foot contour intervals), and all other items required in Section [153.500.050 and 153.500.060] for Conditional/Interim Use Permit applications or by the City. The Existing Site Plan must be at a graphic scale not less than 1:100.
- b. *Proposed Site Plan Required.* The applicant must submit a site plan of proposed conditions, including the proposed number, location and spacing of solar panels; proposed height of panels; location of access roads; planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load; new electrical equipment other than at the existing building or substation that is the connection point for the solar farm; proposed stormwater management facilities; proposed erosion and sediment control measures, and other information as required by the City. The Proposed Site Plan must be at a graphic scale not less than 1:100.
- c. The application must include two vertical sketch elevations of the premises accurately drawn to a scale identified on the drawing, depicting the proposed solar energy conversion system and its relationship to the surrounding topography and public roadways. The sketches must depict the proposed system's relationship to structures on adjacent lots as viewed from six (6) feet above ground level at the residential structure wall that site closest to the solar installation, one sketch showing the view without screening and the other sketch showing the view with proposed permanent screening. The sketch elevations must include a graphic scale not less than 1:50, or as needed to clearly show the vertical relationship between the proposed solar facilities and structures on adjacent lots.
- d. *Use of Public Roads.* The applicant must obtain all necessary approvals from the appropriate road authority for site access and driveways.

- e. *Interconnection Agreement.* The applicant must complete an interconnection agreement with a local utility and provide a copy of the agreement to the City before approval of electrical, building, or other required permits. The system operator must provide a visible external disconnect if required by the utility.
- f. *Within the setback or any adjoining parcels owned by the landowner, utility poles shall be limited to one interconnection pole, for the solar array system. Additional poles required must meet all required setbacks.* The proposed placement of all utility poles, ground equipment, and any proposed aerially mounted equipment must be shown in any proposed plans submitted.

III. Development Agreement, Financial Guarantees, and Insurance.

- a. *Conditional Use Permit.* In addition to any other lawful conditions, the City also reserves option in imposing a development agreement in regards to the Distribution SES operation including repair, maintenance, and replacement and addressing all requirements set forth in Chapter 153.300.030 Subd. 1 (BB) Solar Energy System – Distribution Scale (Distribution SES). If the City elects to impose a development agreement, the development agreement must be executed before a building permit can be issued and must be recorded against the property.
- b. *Vegetative Escrow.* The City will require the ~~posting of a bond, letter of credit or the~~ the establishment of an escrow account, from a creditable banking institution chartered to operate in the State of Minnesota, to ensure vegetation is installed and establishes itself as identified in the approved permit, based on an estimated cost for plantings and labor provided by the applicant. The planting and screening plan must utilize the recommended plant types described in Section [153.400.060] and must be approved by the City.
- c. *Decommissioning Plan.* The applicant must submit a decommissioning plan to ensure that facilities are properly removed after their useful life. If the Distribution SES remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and will constitute a public nuisance. The plan must include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site. The City will require the posting of a bond, letter of credit or the establishment of an escrow account to ensure decommissioning. The guarantee shall be from a creditable banking institution chartered to operate in the State of Minnesota.
- d. *Payment In Lieu of Taxes.* Notwithstanding that Minnesota Statutes Section 272.02, Subdivision 24 (or its successor) classifies real property upon which a solar energy generating system is located that is used primarily for solar energy production (subject to the production tax under Minnesota Statutes Section 272.0295) as class 3a, the City may require the applicant to enter into a Payment In Lieu of Taxes Agreement to compensate the City for any prospective tax revenue that may be lost due to such reclassification.

- e. *Liability Insurance.* The applicant must maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$42 million in the aggregate or the maximum liability thresholds set forth Minnesota Statutes, section 466.04, as amended, whichever is greater, and provide proof that it meets the insurance requirement to the City.

IV. Performance Standards

- a. The limitations on the number or cumulative generating capacity of Distribution SES is regulated by Minnesota Statutes 216B.164 and related regulations.
- b. Distribution SES must comply with all applicable Local, State and Federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; the National Electric Code, as amended; the State Plumbing Code, as amended; and the Minnesota Energy Code, as amended.
- c. If the proposed Distribution SES is adjacent to areas designed or formally protected from development by Local, State and Federal agencies as a wildlife management area, scenic byway, or National Wild and Scenic corridor, the applicant must implement mitigation measures to protect the resource values of the designated wildlife area or scenic corridor as a condition of approval. Such measures may include, but are not limited to, maintaining wildlife travel corridors, setting the development back from the right-of-way or stream corridor, using the natural topography to screen the project, and retaining or planting vegetation that would fully obscure the view of the energy project within the scenic corridor.
- d. Setbacks. The City may require wider setbacks if it determines that the wider setbacks are warranted by the potential impacts to adjacent properties. The nearest solar panel of the Distribution SES must be setback a minimum of:
 - i. ~~The nearest solar panel of the Distribution SES must be setback a minimum~~ 75 feet from all parcel boundaries and
 - ii. 350 feet from existing residential structures on adjacent parcels existing at the time of the permit application. ~~The City may require wider setbacks if it determines that the wider setbacks are warranted by the potential impacts to adjacent properties.~~
 - iii. ~~The nearest solar panel of the Distribution SES must be setback a minimum of 500-800~~ feet from the centerline of minor arterial roadways or ~~200~~ 500 feet from the centerline of all other public road rights-of-way.
 - iv. The structure setback requirements from the Ordinary High Water Level (OHWL) for that District if located in the Shoreland Overlay District.

- e. Ground-mounted solar energy systems may not exceed fifteen feet (15') in height when oriented at maximum tilt. Building-integrated solar energy systems when at maximum tilt may not exceed the maximum height permitted in the Base Zoning District.
- f. All components of the Distribution SES must be screened by:
 - i. Setbacks
 - ii. Berming
 - iii. Scenic canvas
 - iv. ~~e~~Existing vegetation
 - v. Terrain
 - vi. Landscaping
 - vii. A combination thereof.
- g. The solar array must be screened from view from:
 - i. Adjacent road right-of-way.
 - ii. ~~and from Residences~~ Dwellings within five hundred feet (500') of any component of the solar array.
 - iii. Public waterbodies, as viewed from six (6) feet above the ordinary high water level.
 - iv. The City may require greater screening as needed based on development patterns within the City and the adopted Comprehensive Plan.
- h. The visual screen must fully obscure (100%) view of the solar panels during leaf-on and leaf-off conditions ~~during the summer months~~.
- i. The screening shall fully obscure 100% view of the solar panels from any adjacent road right-of-way immediately upon screen completion in accordance with this section, and shall be completed prior to the remainder of solar facilities and panel installation. Effectiveness of screen shall be reviewed and approved by city staff prior to continuation of project installation.
- j. Permanent vegetative screening shall be designed to have a horizontal depth of at least twenty (20) feet.
- k. At least ~~thirty~~ seventy(70) percent of the area of the vegetative buffer, as measured in square feet, must be composed of ~~evergreen~~ coniferous plantings

interspersed throughout the screening. The rest of the vegetative buffer must be composed of densely branched trees and shrubs, as approved by the Zoning Administrator. A landscaping plan must be provided that shows screening elements, including the species of any vegetation used for screening.

1. The required screening must be achieved within ~~four~~ six (46) growing seasons from the date of project approval. If the screening is not established within 6 growing seasons, it must be implemented through the planting of mature vegetation to fully obscure (100%) view of the solar panels as described in Chapter 153.300.030 Subd. 1 (BB) III.i.

Table 153.300.030-4. Distribution SES Screening Summary

<u>Screened From</u>	<u>Percent Obscured</u>	<u>Completed By</u>
<u>Adjacent Road Right-of-Way</u>	<u>100</u>	<u>Immediately upon screen completion, prior to the remainder of solar facilities and panel installation</u>
<u>Dwellings within five hundred feet (500') of any component of the solar array.</u>	<u>100</u>	<u>Within 6 growing seasons</u>
<u>Public waterbodies, as viewed from six (6) feet above the ordinary high water level.</u>	<u>100</u>	<u>Within 6 growing seasons</u>

- m. Any fences or barriers installed for the project must be mounted on wood posts, and may not include any chain link, barbed or razor wire. The fence may not exceed eight (8) feet in height from the ground, and must incorporate wildlife-friendly design with a gap at the bottom for passage of birds and small animals. The City will utilize recommendations from the Minnesota DNR to determine if the fence design is wildlife-friendly.
- n. Scenic canvases. Temporary screening through the use of scenic canvases is only permissible if it has been approved as part of the project application or it is required as a permit condition.
 - i. Scenic canvases may only be used to temporarily screen Distribution SES installations for a maximum of six (6) years.
 - ii. Applicants shall supply a visual representation of the appearance of the canvas for review by the City.
 - iii. If a canvas was not included as part of an original application but has been required as part of a conditional approval, then the applicant shall provide the City with a site plan and a visual sample of the canvas design based on the requirements of this section for the City's final approval.

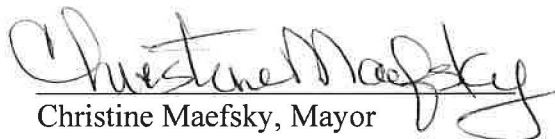
- iv. Scenic canvas shall be attached to fencing, and shall have a natural vegetation or scenic views printed on the entire outward facing portion of the canvas to match the existing surroundings and vegetative screening of the Distribution SES.
- v. Canvases must be designed to accommodate wildlife movement.
- vi. Prohibitions. The following is prohibited from scenic canvases:
 - 1. Canvases that include visible messages or depict images other than what is required are not eligible for use as scenic canvas.
 - 2. Scenic canvases may not be used as a substitute for the implementation of vegetative screening or as a substitute for achieving the final required level of screening coverage within prescribed timeframes.
- vii. Scenic canvassing must be removed once vegetative screening is established.
- viii. Damage and replacement of canvases. If any canvas becomes damaged or fades to point it no longer camouflages prior to the completion of the compliance period to establish vegetative cover, said canvas must be replaced with sixty (60) days of notice to the landowner and owner of the Distribution SES. Should the owner fail to comply with this requirement, the City may replace said canvas at the owner's full expense as prescribed under the developer's agreement.
- o. Distribution SES are subject to stormwater management and erosion and sediment control best practices, including DNR guidelines on Wildlife Friendly Erosion Control, and NPDES permit requirements, and must obtain required permits from the MPCA, local Watershed District, City and others.
- p. All ground areas under solar array installs that are not occupied by equipment or essential access paths, must be planted with a deep rooted, native grass and pollinator seed mix suitable to the soil and moisture conditions of the immediate area. Plant growth must be stable and self-supporting within ~~two (2)~~ one (1) growing seasons from the date of ~~project~~ building permit approval. If approved, the City may allow agricultural pasture plantings under the array. If the agricultural pasture ceases, the ground area shall be planted as required with native grass and pollinator seed mix.
- q. All plans submitted for Building Permit approval must be prepared by a licensed, professional engineer.
- r. Power and communication lines that are not defined in this ordinance as Essential Services and running between banks of solar panels and the interconnection pole or other point of interconnection must be buried underground. Exemptions may be granted by the City in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines, or the

distance to a substation or other point of interconnection reasonably precludes burial.

- s. All Distribution SES facilities must be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties, as well as adjacent street rights-of-way. Steps to control glare nuisance may include selective placement of the system, screening on the side of the solar array facing the reflectors, reducing use of the reflector system, or other remedies that limit glare. Distribution SES utilizing a reflector system must conduct a glare study to identify the impacts of the system on occupied buildings and transportation rights-of-way within a half mile of the project boundary. The glare study must also address aviation impacts.
- t. The surface area of posts and related equipment for ground-mounted systems in combination with driveways, structures and other impervious surfaces on the parcel may not exceed the maximum lot coverage standard of the applicable Zoning District.
- ~~u. Any fences or barriers installed for the project must be mounted on wood posts, and may not include any chain link, barbed or razor wire. The fence may not exceed eight feet in height from the ground, and must incorporate wildlife-friendly design with a gap at the bottom for passage of birds and small animals. The City will utilize recommendations from the Minnesota DNR to determine if the fence design is wildlife friendly.~~
- v. If lighting is provided at the project, lighting must be shielded and downcast such that the light does not spill onto adjacent properties.
- w. If the Distribution SES remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and will constitute a public nuisance. The owner must remove the abandoned system at their expense after obtaining a demolition permit. Removal includes the entire structure including transmission equipment.

Section 7 Effective Date. This ordinance shall be in full force and effect upon its adoption.

Passed and adopted by the City Council of the City of Scandia this 18 day of April, 2023.


Christine Maefsky, Mayor

ATTEST:



Kyle Moren, City Administrator