STAFF REPORT
DATE:9/12/2023
DISCUSSION

TO: City Council Workshop
FROM: Sophia Jensen, City Planner
AGENDA ITEM: **Review of the City's Solar Farm Regulations**
REVIEWED BY: Kristina Handt, City Administrator

BACKGROUND:
The City Council asked staff to bring forward for review the City's solar farm performance standards and use designations due to concerns with the impacts solar farms may have on the rural character and visibility from adjacent properties.

ISSUE BEFORE THE CITY COUNCIL:
Does the City Council wish to change the solar farm use designations and/or performance standards?

ANALYSIS:
Staff investigated 3 City's with similar characteristics or geographic location who also had solar farm regulations. Highlights from the review are summarized below:

City of Hugo updated their solar ordinance on July 24th 2023.Their revisions include the requirements of solar farm to be located 100 feet from all property lines and 200 feet from any principal structure on adjacent properties, they previously required a 50 foot setback. They currently require solar farms to be on a parcel of 10 acres or more, and added regulations that solar farms are limited to 5 acres of the site area. They also require a 6' screening buffer. Hugo also incorporated language that ground area within the solar farm is to be planted with native pollinator plants. (Ordinance 2023-528)

City of Scandia updated their solar ordinance on April 18th 2023. Their revisions include the creation of the Solar Energy System Overlay District (SES-O). They require a 75 foot setback from all parcel boundaries and 350 feet from existing residential structures at the time of the application. Scandia also requires an 800 foot setback from the centerline of minor arterial roadways and 500 feet from the centerline of all other public road right of ways. Their screening requirements include a scenic canvas attached to fencing, a vegetative screening depth of 20 feet, and the use of native pollinator plants. Scandia requires 100% opaque screening year round met after 6 growing seasons. They also have regulations regarding stormwater permitting, decommissioning, and lighting. (Ordinance 2023-03)

Cottage Grove requires a minimum of 300' from all property boundary lines and that solar farms are located on a lots of at least 5 acres. Cottage Grove requires vegetative screening and buffering,

which may include fences or walls. They also require that electrical connection systems must be placed underground within the interior of each parcel and between the solar energy system and the point where the interconnection to the electric grid is made. (§ 11-4-13 Cottage Grove City Code)

The City of Lake Elmo allows solar farms as an interim use in rural transitional (RT) zoning districts and as a conditional use in the rural residential (RR) and agriculture (A) zoning districts subject to the following standards, LEC 105.12.1470 requires solar farms to be located on a lot of at least 10 acres in size and maintain at least a 50 foot setback from adjacent properties. The code also requires screening and fencing as determined by the City from adjacent properties. The code also cites regulations for stormwater and NPDES permitting in addition to the certification of the panels design, foundation and raking by an engineer. (Note the use table cites 105.12.1440 which should be corrected to 105.12.1470).

FISCAL IMPACT:
Potential loss of land use application fees.

OPTIONS:

- Leave the solar farm use and performance standard regulations the same; or
- If a majority of the council would like staff to change the solar farm use and/or ordinance, please provide staff with direction on what changes are preferred and staff will bring the ordinance changes back to council for approval.

ATTACHMENTS:

- Comparison Tables
- Map of Possible Solar Farm Sites Based on Current Code
- Lake Elmo Solar Farm Ordinance (Use Table and Performance Standards)
- City of Hugo Ordinance 2023-528 and CC Minutes from 7-24-2023
- City of Scandia Ordinance 153.300 Allowed Uses Ord No 2023-03
- City of Cottage Grove Ordinance § 11-4-13(e) Cottage Grove City Code

City	Zoning Districts	Use
Cottage Grove	Accessory use in all zoning districts identified in Exhibit A of Res 985	Interim Use Permit
City of Hugo	LA; AG; RR; FUS	Interim Use Permit
City of Scandia	SES Overlay District: AG-C, RC-C, I-P	Conditional Use Permit
City of Lake Elmo	A; RR RT	Conditional Use Permit Interim Use Permit

A - Agricultural

AG-C - Agricultrual Core

AP - Agricultural Preserve

LA - Long Term Agriculture FUS - Future Urban Service

RC - Rural Commercial

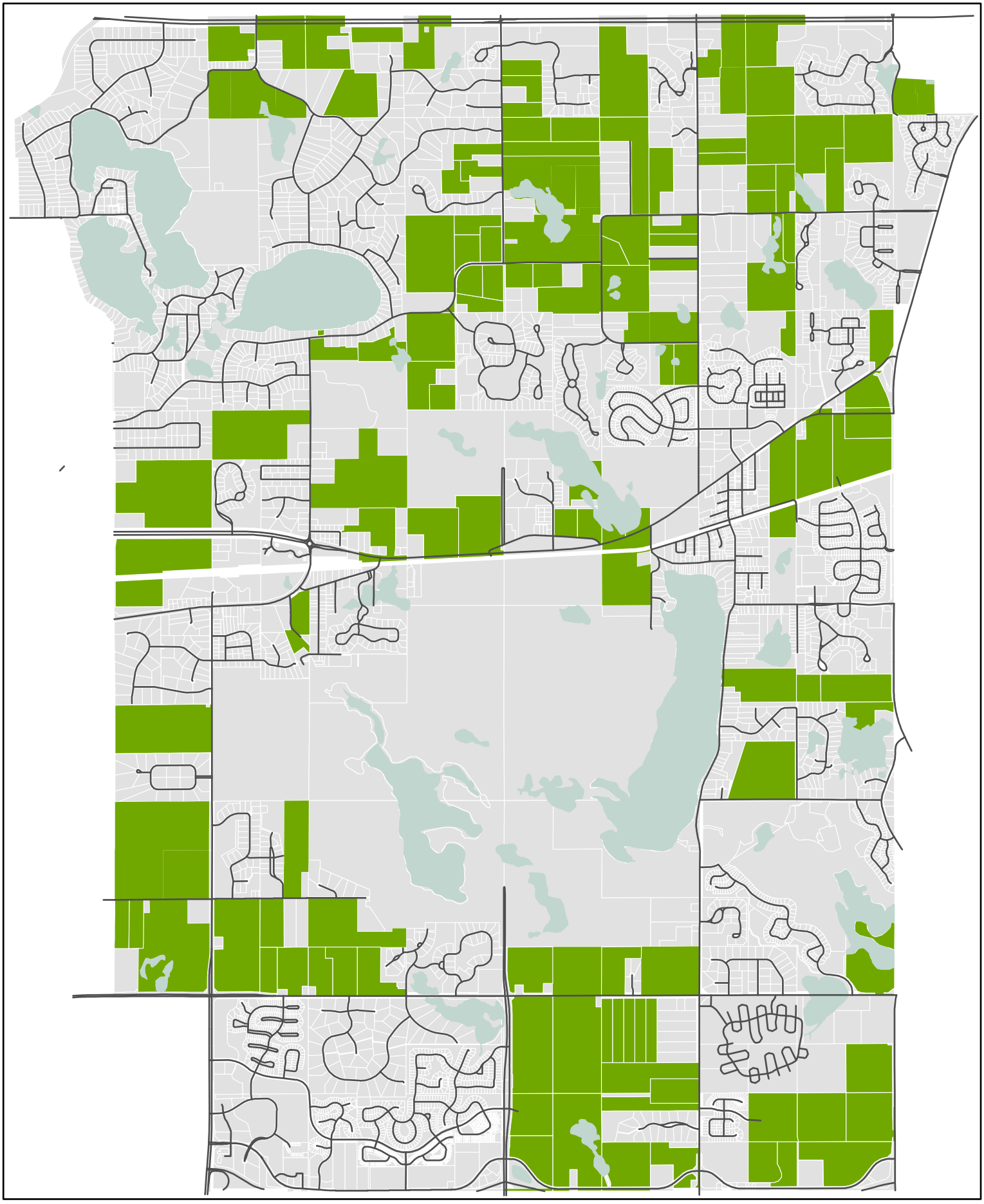
IP - Industrial Park

RR - Rural Residential

RT - Rural Transitional

City	Setbacks	Screening and Landscape Requirements	Lot Size
Hugo	100' setback from all property lines and 200' setback from public ROW and principal structures on adjacent properties.	6' tall screening vegetation and use of native pollinator plants for area within solar farm.	Located on a lot of at least 10 acres but limited to an area of 5 acres.
Scandia	75' setback from all parcel boundaries. 350' from existing residential structures at the time of the application. 800' setback from the centerline of minor arterial roadways. 500' from the centerline of all other public road right of ways	Their screening requirements include a scenic canvas attached to fencing, a vegetative screening depth of 20 feet, and the use of native pollinator plants. 100% opaque screening year round met after 6 growing seasons.	N/A
Cottage Grove	300’ from all property boundary lines.	Requires vegetative screening and buffering, which may include fences or walls.	Located on a lot of at least 5 acres.
Lake Elmo	50' setback from adjacent properties.	The code also requires screening and fencing as determined by the City from adjacent properties.	Located on a lot of at least 10 acres.

Possible Solar Farms
(Zoned RR, A, or RT and 10+ Acres)



Lake Elmo

105.12.620 Permitted, Conditional, And Interim Uses

Table 9-1 lists all permitted, conditional, and interim uses allowed in the rural districts. "P" indicates a permitted use, "C" a conditional use, and "I" an interim use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under "Standard" indicate the location within this section of specific development standards that apply to the listed use.

Combinations of uses. Principal and accessory uses may be combined on a single parcel.

Table 9-1: Permitted, Conditional, and Interim Uses, Rural Districts

	RT	*A*	*RR*	*RS*	*RE*	*Standard*
Residential Uses						
Household living						
Single-family detached dwelling	P	P	P	P	P	LEC 105.12.650(a)
Secondary dwelling	-	P	-	-	-	LEC 105.12.650(d)
Services						
Self service storage facility	I[a]	I[a]	-	-	-	LEC 105.12.650(g)
Outdoor Recreation						
Outdoor recreation facility	-	C	-	-	-	LEC 105.12.540(c)
Parks and open areas	P	P	P	P	P	LEC 105.12.110(b)(7)
Restricted recreation	-	C	-	-	-	LEC 105.12.540(b)
Agricultural and Related Uses						
Agricultural entertainment business	I	I	I	-	-	LEC 105.12.1420
Agricultural production	P	P	P	-	-	LEC 105.12.110(b)(9)
Agricultural sales business	I	I	I	-	-	LEC 105.12.1410
Agricultural services	C	C	-	-	-	LEC 105.12.650(j)
Forestry operations	-	P	-	-	-	LEC 105.12.110(b)(9)
Greenhouses, non-retail	C	C	C	-	-	LEC 105.12.110(b)(9)
Solar farm	I	C	C	-	-	LEC 105.12.1440
Wayside stand	P	P	P	-	-	LEC 105.12.110(b)(9)
Industrial and Extractive Uses						

Motor freight and warehousing	I[a]	-	-	-	-	LEC 105.12.650(g)
Environmental Uses						
Wind Generator - Ground Mounted	C	C	C	C	C	LEC 105.12.560(b)
Wind Generator - Roof/Structure Mounted	C	C	C	C	C	LEC 105.12.560(b)
Accessory Uses						
Bed and breakfast	P	P	P	P	P	LEC 105.12.570
Domestic pets	P	P	P	P	P	LEC 105.12.110(b)(13)
Family day care	P	P	P	P	P	LEC 105.12.110(b)(13)
Home occupation	P	P	P	P	P	LEC 105.12.110(b)(13)
Kennel, private	C	C	C	-	-	LEC 105.12.110(b)(13)
Solar energy systems	P	P	P	P	P	LEC 105.04.220(c)
Stable, private	C	C	C	-	-	LEC 105.12.110(b)(13)
Swimming pools, hot tubs, etc.	P	P	P	P	P	LEC 105.08.160
Temporary sales	P	P	P	P	P	LEC 105.12.110(b)(13)
Water-oriented accessory structures	P	P	P	P	P	LEC 105.12.1230
Wind Generator - Ground Mounted	C	C	C	C	C	LEC 105.12.560(b)
Wind Generator - Roof/Structure Mounted	C	C	C	C	C	LEC 105.12.560(b)
Other structures typically incidental and clearly subordinate to permitted uses	P	P	P	P	P	
Commercial wedding ceremony venue	I	I	I	-	-	LEC 105.04.220(d)
Farm Schools, Public and Private	I	C	C	C	C	105.12.510
Open space preservation development						
OP development	-	C	C	-	-	Ch. 105.12, Art. XVII
Notes to rural districts Table 9-1:						

a. One dwelling unit per 40 acres applies to all non-farm dwellings. In additional to non-farm dwellings (one per 40 acres), each farm is allowed one farm dwelling per farm.
b. Nominal 40 acres: A 40-acre parcel not reduced by more than ten percent due to road rights-of-way and survey variations.
c. Nominal ten acres: A ten-acre parcel not reduced by more than ten percent and/or a ten-acre parcel located on a corner or abutting a street on two sides not reduced by more than 15 percent due to road rights-of-way and survey variations.
d. The minimum lot size for lots served by public sanitary sewer shall be 24,000 square feet per residential unit.
e. A minimum of 1.25 acres of land above the floodplain or free of any drainage easements is required.
f. Lots must be configured to contain a circle with a diameter of 250 feet minimum; the ratio of lot length to width shall be a maximum of 3:1. Flag lots are prohibited.
g. Corner properties: The side facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be as shown in the table.
h. Setback standards do not apply to solar farms. LEC 105.12.1440 should be referenced for these specific standards.

HISTORY
Amended by Ord. 08-243 on 1/5/2021
Adopted by Ord. 08-253 on 11/3/2021

105.12.1470 Solar Farms

(a) *Conditional or interim use permit*. A conditional or interim use permit subject to the zoning district in which the proposed solar farm is to be located.

(b) *Minimum lot size, setbacks, and screening requirements*. Solar farms are limited to properties at least ten acres in size. Solar farms must maintain a setback of at least 50 feet from adjacent properties and be screened and fenced as determined by the city from adjacent residential properties.

(c) *Stormwater and NPDES*. Solar farms are subject to the city's and watershed district's stormwater management and erosion and sediment control provisions and NPDES permit requirements.

(d) *Foundations*. A qualified engineer shall certify that the foundation and design of the solar panels, racking and support is within accepted professional standards, given local soil and climate conditions.

HISTORY
Adopted by Ord. 08-253 on 11/3/2021

SOLAR ENERGY SYSTEMS ORDINANCE 20~~16-475~~23-XXX Hugo

CITY OF HUGO
WASHINGTON COUNTY, MN

ORDINANCE RELATING TO AND REGULATING
ACCESSORY SOLAR ENERGY SYSTEMS AND SOLAR FARMS

TITLE:
An ordinance adding and amending Chapter 90, Article I, Sec. 90-1. – Definitions, Chapter 90, Article IV - Zoning District Regulations, and Chapter 90, Article VI- Requirements for Specific Uses and Performance Standards.

SOLAR ENERGY SYSTEMS ORDINANCE:

Chapter 90, Article I, Sec. 90-1. – Definitions

Add the following:

Accessory Solar Energy Systems means a solar energy system that is composed of a single or multiple solar panels where the system is deemed accessory to the primary land use. An accessory solar energy system is intended to primarily reduce on-site consumption of utility power for an active existing use/structure. Excess electrical power generated and not presently needed for on-site use may be provided to the utility company.

Ground Mounted Solar Energy System means a solar energy system that is structurally mounted to the ground, generally upon a pole or rack mount. A ground mounted system may be a fixed or tracking system.

Roof Mounted Solar Energy System means a solar energy system that is structurally mounted to the roof of a structure. These systems are generally affixed with a racking system and may be flush or angled.

Solar Access means unobstructed access to the solar resource on a lot or building, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Array means a group of solar panels wired together.

Solar Energy Easement means an easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Solar Energy System means a system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Farm means a solar energy system that is composed of multiple solar panels where the primary land use, whether by footprint or visual impact or both, of the parcel is for a solar array. A solar farm produces energy for wholesale to subscribers.

Solar Hot Water System means a system that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Panel means a panel designed to absorb the sun's rays as a source of energy for generating electricity or heating.

Solar Resource means a view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

Chapter 90, Article IV – Zoning District Regulations

Add from Sec. 90-93. – Long term agricultural district (LA) through Sec. 90-110 – Future central business district (FCB) (d) Conditional uses / Interim uses. and (d)(#) Solar energy systems (refer to section 90-278).

Chapter 90, Article VI – Requirements for Specific Uses and Performance Standards

Add **Sec. 90 – 278. – Solar energy systems.**

(a) **Unlawful unless conditions met.** It is unlawful for any person to construct, erect, install, or maintain a solar energy system in the city, except in conformance with this section.

(b) **Purpose and intent.** The purpose of this section is to allow for the generation of renewable energy within the City of Hugo. Promoting the safe, effective, and efficient use of solar energy, may reduce the onsite consumption of fossil fuels and utility-supplied electric energy while avoiding adverse impacts on the community at large.

(c) **General standards for all solar energy systems.** Solar energy systems must conform to all of the following standards:

(1) A building permit shall be required for the erection of solar energy system. Prior to the issuance of a building permit, the operator must provide evidence of an agreement with the local utility. Off-grid systems shall be exempt from providing evidence of an agreement with the local utility.

(2) It shall be the responsibility of the property owner to secure any solar energy easements, if applicable, to protect solar access for the system (as per MN Statute Section 500.30).

(3) Solar energy system components shall be labeled with the manufacturers name and address, model number, and serial number.

(4) All exterior electrical or other service lines shall be buried underground. The collection system may be placed overhead near substations or points of interconnection to the electrical grid. Exceptions may be granted in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(5) All solar energy systems shall be in compliance with the adopted City and State building code, electrical code, and plumbing code, as amended and receive any necessary permits or approvals from any regulatory agency having jurisdiction.

(d) **Solar farms.**

(1) **Solar farm interim use permits.** An interim use permit application must be submitted for approval by the Planning Commission and City Council before a permit is issued for a solar farm. The information required and the procedure to be followed for all solar farm interim use permit applications shall be the same as that required for a conditional use permit set forth in subsections 90-37(a) and (b). In addition, the applicant shall submit supplementary information pertaining to the nature of the solar farm including:

a. Total square footage of the solar energy system.
b. Total energy production for the site.
c. To scale horizontal and vertical (elevation) drawings.
d. Drawings must show the location of the system on the property including the property lines and proposed fencing or vegetative buffer.
e. Decommissioning plan.

(2) **Performance standards for solar farms.** Solar farms shall be erected and maintained to meet the following standards.

a. Solar farms shall be located on a minimum lot size of 10 acres within the Long Term Agricultural (LA), Agricultural (AG), Rural Residential (RR), and Future Urban Service (FUS) zoning districts. Solar farms may also be located in any other zoning district only in the floodplain, as long as all other conditions are met.

b. Solar farms shall be ~~50~~ 100 feet from all property lines, 200 feet from all ~~and~~ public road rights-of-way, and 200 feet from any principal structure on adjacent properties.

c. Solar farms shall be limited to a size of 5 acres, measured by the exterior edges of the solar array.

d~~e~~. Ground mounted solar energy systems shall not exceed 15 feet in height at any point when oriented at maximum tilt.

e~~d~~. Solar farms shall be enclosed by approved perimeter fencing or adequate vegetative buffer for screening. The primary form of buffer for screening shall be at least 6-foot tall vegetation. ~~-~~ Exception may be granted if the natural landscape provides screening from all public right of ways and neighboring properties.

f. All ground areas within the perimeter fencing of a solar farm that are not occupied by equipment or access paths shall be planted with deep rooted, native pollinator plantings.

g. Solar farm applications shall include a vegetation establishment and management plan which shall be reviewed and approved by staff.

h~~e~~. The owner/ operator of the solar farm shall provide the City with evidence that the solar energy system is functioning properly. This shall be provided at any time deemed necessary by the City.

if. The owner/operator shall submit a decommissioning plan for the solar farm to ensure that the owner/operator properly removes the equipment and facilities upon the end of the project life, abandonment, expiration, or termination of the interim use permit. If the solar energy system remains nonfunctional or inoperative for a continuous period of 12 months, the system shall be deemed abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained within 90 days after notice has been given. Removal includes the entire structure including transmission equipment, structures and foundations, and the restoration of soil and vegetation. The owner/operator shall provide a current-day decommissioning cost estimate, and shall post financial security in a form acceptable by the City. This estimate must include an inflationary escalator, in an amount determined by the City, which will allow the City to remove the solar farm from the property after the 90-day period has elapsed.

(3) **Criteria of approval of a solar farm.** An application for a solar farm interim use permit may be granted only upon finding that all of the following criteria have been met:

a. The applicant owns the property or has secured a proper lease agreement on the property, unless the City Council determines that unique conditions or circumstances warrant special arrangement.

b. The proposed solar farm is allowed as a principle use in the respective zoning district and conforms to this chapter.

c. The proposed solar farm is keeping with the spirit and intent of this chapter.

d. The construction of a solar farm shall not impede the City's ability to implement its comprehensive plan.

e. The proposed solar farm is compatible with the present character of the surrounding area.

f. The proposed solar farm shall have a set date in which the permit shall be reviewed or terminated.

g. The proposed solar farm shall be subject to any conditions that the City Council deems appropriate for the permission of the use.

(4) **Conditions of approval.** In permitting a new solar farm interim use permit or amending an existing solar farm interim use permit, the Planning Commission may recommend and the City Council may impose additional conditions and requirements to protect the health, safety, and welfare of the surrounding area and the community at large, mitigate unfavorable consequences of activities resulting from the solar farm, enforce laws and regulations, and ensure compliance with the conditions of the permit. These conditions may include, but are not limited to, the following:

a. Limitations on period of use and operation.

b. Buffering and screening measures.

c. ~~Approval periods between one to twenty-five years.~~Additional setbacks.

d. Approval periods between one to twenty-five years.

(5) **Renewal of a solar farm interim use permit.** Because of its temporary nature, an interim use permit for a solar farm shall not be renewed. Continuation of a solar farm beyond the date of expiration of its interim use permit requires approval of a new interim use permit.

(6) **Interim use permit nontransferable.** Solar farm interim use permits do not run with the land. The permit is not transferable from person-to-person, and shall expire if there is a change in ownership of the property, unless the following conditions are met:

a. The new permit holder must own the property or have a written lease agreement with the property owner stating the land will continue to be used for the production of energy via a solar farm.

b. The new permit holder shall abide by all requirements of the original permit, including, but not limited to, posting financial security to the City for decommissioning, as outlined in subsection 2 (f).

c. The transfer of the permit must be approved by the city and filed accordingly.

(7) **Basis for denial.** In order to recommend denial of an interim use permit, the Planning Commission must find that the proposed use will not meet one or more of the conditions found in subsection (3) of this section.

(8) **Suspension and revocation.**

a. The City Council may suspend or revoke an interim use permit upon failure of the interim use, or the interim use permit holder, owner, operator, tenant, or user, to comply with City Codes, the laws of the State of Minnesota, the approved plans, or the conditions of approval, or by which that activities allowed under the permit adversely affect the public health, safety, or welfare.

b. A suspension or revocation of an interim use permit shall be preceded by written notice to the permit holder and a hearing before the city council. The notice shall provide at least ten days' notice of the time and place of the hearing and shall state the nature of the violations. The notice shall be mailed to the permit holder at the most recent address listed on the application.

(9) **Expiration and termination.** An interim use permit shall expire and the interim use permit shall terminate at the earlier of:

a. The expiration date established by the City Council at the time of approval, but in no case more than 25 years from the date of approval.

b. Occurrence of any event identified in the interim use permit for the termination of the use.

c. Upon an amendment to the City Code that no longer allows the interim use.

(10) **Issuance of permit.** The Community Development Director or designee shall, within ten days of City Council approval of any interim use permit, provide one copy of the

completed permit to the applicant, the City Clerk, and for permits issued in the floodplain district or shoreland district, to the Commissioner of the Department of Natural Resources.

(e) **Accessory Solar Energy Systems**

(1) **Accessory solar energy systems building permit.** A building permit application must be submitted and approved by the Building Official before an accessory solar energy system is installed. The information required and the procedure to be followed for all accessory solar energy system applications shall be the same as that required for a building permit. In addition, the applicant shall submit supplementary information pertaining to the nature of the accessory solar energy system including:

a. Total square footage of the solar energy system.

b. Total energy production for the site.

c. To scale horizontal and vertical (elevation) drawings.

d. Drawings must show the location of the system on the building or on the property including the property lines and proposed screening, if required.

(2) **Accessory commercial or industrial solar energy systems building permit.** All commercial or industrial solar energy systems will require submittal for approval by the Community Development Director or designee before a permit is issued for any accessory solar energy system. This submittal process will require the same application and supplementary information required in e (1). Denial of a building permit request may be appealed to the Planning Commission by following the procedures outlined in 90-37.1.

(3) **Performance standards for accessory solar energy systems.** Accessory solar energy systems shall be erected and maintained to meet the following standards.

a. Setbacks for accessory solar energy systems are as follows:

1. Ground or pole mounted solar energy system panels shall conform to all setback requirements for accessory uses in the district in which they are located.
2. Roof mounted solar energy systems shall abide by all manufacturer specifications and requirements.

b. Coverage requirements for accessory solar energy systems are as follows:

1. Ground mounted solar energy systems are considered accessory structures. The size of the system (sq. ft.) will be calculated as part of the maximum combined number and size of accessory structures allowed by lot size. The number and size of accessory structures permitted are as follows:

Lot size	Maximum number of accessory structures allowed	Maximum combined size of accessory structures (square feet)

Under 1.5 acre	1	260
1.5 to 2.99 acres	2	1,500
3 to 4.99 acres	2	2,000
5 to 9.99 acres	2	3,500
10 or more acres	3	5,000

2. Roof mounted systems are not accessory structures and are excluded from size and number calculations for accessory structures.

3. A variance application may be submitted if the ground mounted solar energy system exceeds the limits for maximum combined size of accessory structures, but does not meet the definition of a solar farm.

c. Height requirements for accessory solar energy systems are as follows:

1. Ground or pole mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.

2. Roof mounted solar energy systems shall not project vertically more than the height requirements of the district in which they are located.

d. Screening requirements for accessory solar energy systems are as follows:

1. Residential roof mounted solar energy systems are not required to be screened by this ordinance.

2. Commercial or industrial roof mounted solar energy systems shall be installed such that it is compatible with the building architecture. Architectural standards as found in the commercial and industrial guidelines, a PUD, or other architectural conditions shall apply.

e. Except in the agricultural and long-term agricultural zoning districts, no ground or pole mounted solar energy system shall be located or protrude in front of the principle building on the site, in relation to any public street.

f. Roof mounted solar energy systems shall not extend beyond the perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building.

g. If the solar energy system remains nonfunctional or inoperative for a continuous period of 12 months, the system shall be deemed abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense

within 90 days. Removal includes the entire structure including transmission equipment, structures and foundations, and the restoration of soil and vegetation.

(4) **Criteria for approval of an accessory commercial or industrial solar energy system.** An application for an accessory commercial or industrial solar energy system permit may be granted only upon a finding that all the following criteria have been met:

a. The applicant owns the property or has a leasing contract with the owner of the property.

b. The proposed solar energy system conforms to this chapter.

d. The proposed solar energy system shall be subject to, by agreement with the property owner or lease holder, any conditions that the City deems appropriate for permission of the use.

Passed and adopted by the City Council of the City of Hugo this ___ day of _____, 2023.

_____
Tom Weidt, Mayor

Attest:

_____
Michele Lindau, City Clerk

MINUTES

City Council Meeting
City Hall Council Chambers
Monday, July 24, 2023
7:00 p.m.

Hugo - CC Minutes Approving Solar Ordinance 2023-528

Call to Order

Mayor Weidt called the meeting to order at 7:00 p.m.

Roll Call

COUNCIL PRESENT: Klein, Miron, Strub, Weidt
COUNCIL ABSENT: Petryk
OTHERS PRESENT: City Administrator Bryan Bear, City Engineer Mark Erichson, City Attorney Dave Snyder, Community Development Director Rachel Juba, Finance Director Anna Wobse, City Clerk Michele Lindau

Approve Minutes for the July 10, 2023, City Council Meeting

Klein made motion, Strub seconded, to approve the minutes for the City Council meeting held on July 10, 2023, as presented.

All Ayes. Motion carried.

Approval of Agenda

Weidt made motion, Klein seconded, to approve the agenda as presented.

All Ayes. Motion carried.

Presentation of 2022 Audit Report – Jill Schultz, Smith Schafer & Associates

Jill Schultz from the independent accounting firm of Smith Schafer & Associates presented a recap of the audit of City finances for the 2022 fiscal year. She began by providing background and stated the reason for the audit was to provide assurance financial statements were free of material misstatements. Six areas were required to be tested by the state, and there were no exceptions noted during the 2022 audit.

She explained the difference between Governmental and Enterprise fund types and provided details on each. She reviewed revenues stating City property taxes bring in the most revenue, and building permit revenue decreased slightly in 2022. Governmental Fund revenues showed a loss in investment earnings in 2021 and a larger loss in 2022, which was seen across the board in all of their government clients. Government Expenditures showed increases in all categories due mainly to the increased salaries for previously unfilled positions and materials and the construction of the new Lions Park and Public Works facility. Overall, the General Government, Public Safety, and Street and Highway funds made up most of the expenditures. Park maintenance expenditures increased due to Lions Park. Jill talked about the purpose and benefit of general fund reserves saying they create a favorable bond rating and provide for unanticipated

expenditures. She said the state auditor recommended 35-50% in the reserve, but Hugo typically budgeted at least 50% of the following year's budget. She reviewed capital projects over the past five years that showed large increases over the past two years due mainly to Lions Park and the new Public Works building. She talked about the Enterprise Fund explaining decreases in the revenue were due to less new construction so trunk fees and connection fees were down, and the loss in investments. She summarized by saying the City was issued an unmodified audit opinion with no Minnesota legal compliance exceptions. The Annual Comprehensive Financial Report (ACFR) had been posted on the City's website and a summary had been published in the City's official newspaper.

Miron made motion, Klein seconded, to formally accept the 2022 City Audit.

All Ayes. Motion carried.

Consent Agenda

Klein made motion, Strub seconded, to approve the following Consent Agenda:

1. Approve Claims Roster
2. Approve Annual Performance Review for Associate Planner Max Gort
3. Approve Summary Ordinance on Interim Cannabis.
4. Approve Lawful Gambling Excluded Bingo Permit for the Northern Lights Car Show on September 17, 2023 at the Blacksmith
5. Approve Special Event Permit for Wenzel-Markfort Family Reunion on August 12, 2023
6. Approve Special Event Permit for Wilson Tool Company Picnic on August 13, 2022
7. Approve Special Event Permit for Kourageous Karter Race on September 16, 2023
8. Approve Encroachment Agreement for 13367 Fondant Trail North
9. Approve Encroachment Agreement for 6143 Goodview Trail Court North
10. Approve Shores of Oneka Lake, Outlot B Wetland Replacement Plan

All Ayes. Motion carried.

Approval of Claims

Adoption of the Consent Agenda approved the Claims Roster as presented.

Approve Annual Performance Review for Associate Planner Max Gort

Max Gort was hired as the new Associate Planner on August 8, 2022. Adoption of the Consent Agenda approved the Annual Performance Review for Associate Planner Max Gort.

Approve Summary Ordinance on Interim Cannabis

At its July 10, 2023, meeting, Council approved an interim ordinance on cannabis. Staff had prepared a summary of that ordinance for publication. Adoption of the Consent Agenda approved **SUMMARY ORDINANCE 2023-527,** A SUMMARY OF AN INTERIM ORDINANCE PROHIBITING THE SALE, TESTING, MANUFACTURING, AND DISTRIBUTION OF CANNABINOID PRODUCTS.

Approve Lawful Gambling Excluded Bingo Permit for the Northern Lights Car Show on September 17, 2023 at the Blacksmith

The Northern Lights Car Club had applied for a Lawful Gambling Excluded Bingo Permit to hold bingo during their Northern Lights Car Show at the Blacksmith Lounge on September 17, 2023. Licenses are issued by the Minnesota Gambling Control Board after the application is approved by the City. Adoption of the Consent Agenda approved the application for a Lawful Gambling Excluded Bingo Permit for the Northern Lights Car Club.

Approve Special Event Permit for Wenzel-Markfort Family Reunion on August 12, 2023

Kathy Wenzel-Markfort had applied for a Special Event Permit to hold a family reunion on her property at 5623 142nd Street on Saturday, August 12, 2023. A band would be playing from 5 p.m. to 7 p.m. at this event. An event that included live music required a Special Event Permit approved by Council. Adoption of the Consent Agenda approved the Special Event Permit for the family reunion on August 12, 2023.

Approve Special Event Permit for Wilson Tool Company Picnic on August 12, 2023

Wilson Tool had applied for a Special Event Permit to hold their annual company picnic on Saturday, August 12, 2023, at the Hanifl Shelter and Fields. This event required a Special Event Permit approved by Council because there would be amplified sound, alcohol served, temporary structures (tents), and approximately 500-1,000 people were expected to attend. This would be a private event and free of charge to Wilson Tool employees and their families. Adoption of the Consent Agenda approved the Special Event Permit for the Wilson Tool Picnic on Saturday, August 12, 2023

Approve Special Event Permit for Kourageous Karter Race on September 16, 2023

Jennifer Williams, representing the Kourageous Karter Foundation, had applied for a Special Event permit to hold the Kourageous Karter Race on Saturday, September 16, 2023. This would be a run/walk to raise awareness and funds to help support the needs of medically complex kids. The run/walk would begin at the Pede Pedersen Pavilion and continue onto the Hardwood Creek Trail. This event required a Special Event Permit approved by Council because there was expected to be over 200 people in attendance. Adoption of the Consent Agenda approved the Special Event Permit for the Kourageous Karter Race on Saturday, September 16.

Approve Encroachment Agreement for 13367 Fondant Trail North

Sara Thorstenson and Brandon Porten had requested an encroachment agreement to allow construction of a fence within a drainage and utility easement on property located at 13367 Fondant Trail North. The Senior Engineering Technician had reviewed the location of the fence and was comfortable with the request. Adoption of the Consent Agenda approved **RESOLUTION 2023-19** APPROVING AN ENCROACHMENT AGREEMENT TO ALLOW CONSTRUCTION OF A FENCE WITHIN A DRAINAGE AND UTILITY EASEMENT ON THE PROPERTY LOCATED AT 13367 FONDANT TRAIL NORTH.

Approve Shores of Oneka Lake, Outlot B Wetland Replacement Plan

Fenway Land Company had requested to impact a .5-acre wetland for future development of Outlot B, The Shores of Oneka Lake. The City had not approved any development application or development of the property with the wetland replacement plan. Any development of the site would require approval from the City. The applicant proposed to replace the impacts to the wetland basin though the purchase of wetland credits from an approved wetland bank. Adoption of the Consent Agenda approved the wetland replacement plan, subject to final Technical Evaluation Panel issuance of the Notice of Decision for the wetland replacement application.

Discussion and Approval of Solar Ordinance and Summary Ordinance

Community Development Director Rachel Juba provide background on the review of the Solar Energy Systems Ordinance. At its June 12, 2023, meeting, Council extended the moratorium on the new development of solar farm solar energy systems for six months. The Ordinance Review Committee (ORC) had met several times to determine potential revisions to the ordinance and proposed several revisions to the performance standards and conditions of approval. Proposed changes included increasing the setbacks to 200 feet, five-acre size limit, and requirements for six-feet tall vegetation for screening, pollinator friendly plants, and a vegetation management plan. It was also proposed to include imposing addition setbacks based on conditions. Planning Commission held a Public Hearing at its July 13, 2023, meeting and took public comments. There was discussion on setbacks, screening, and trespassing. The Planning Commission had unanimously recommended approval of the proposed changes including language to have the duration of the Interim Use Permit begin when the solar farm went into operation.

Klein and Miron were on the ORC and agreed it met what the committee had talked about to maintain property rights with the understanding that this type of development has impacts.

Klein made motion, Miron seconded, to approve **ORDINANCE 2023-528** AMENDING CHAPTER 90 – ZONING AND LAND USE, ARTICLE VI – REQUIREMENTS FOR SPECIFIC USES AND PERFORMANCE STANDARDS, SECTION 90-278 – SOLAR ENERGY SYSTEMS, AS IT RELATES TO SOLAR FARMS.

Roll call vote-
Ayes: Klein, Miron, Strub, Weidt
Nay: None
Motion carried.

Miron made, motion, Klein seconded, to approve **SUMMARY ORDINANCE 2023-528,** A SUMMARY OF AMENDED SOLAR ENERGY SYSTEMS ORDINANCE.

Roll call vote-
Ayes: Klein, Miron, Strub, Weidt
Nay: None
Motion carried.

Receive Bids and Award Contract for Lift Station No. 12

City Engineer Mark Erichson explained that on July 20, 2023, bids were received for Lift Station No. 12 Improvements. Six bids were received with the low bidder being CW Houle, Inc. Bids ranged from $614,930.00 to $2,896,968.69. The engineer's estimate was $750,000. The lift station was on schedule to be substantially complete by January 19, 2024, with final completion by May 17, 2024. Erichson recommended approval of the resolution receiving bids and awarding the contract to CW Houle, Inc. in the amount of $614,930.00.

Miron made motion, Klein seconded, to approve **RESOLUTION 2023-21** RECEIVING BIDS AND AWARDING A CONTRACT FOR LIFT STATION NO. 12.

All Ayes. Motion carried.

Receive Bids and Award Contract for TH61 and 159th Street Improvements

City Engineer Mark Erichson explained that on July 21, 2023, bids were received for the TH 61 and 159th Street Roundabout Improvement Project. Six bids were received ranging from $2,161,729.90 to 2,942,458.70. The engineer's estimate was $2,755,147.20. The street improvement project was on schedule to be substantially complete by December 1, 2023, with final completion by May 31, 2024. Erichson recommended approval of the resolution receiving bids and awarding a contract to Arnt Construction Company, Inc. in the amount of $2,161,729.90.

Klein made motion, Strub seconded, to approve **RESOLUTION 2023-22** RECEIVING BIDS AND AWARDING A CONTRACT FOR THE TH 61 & 159TH STREET RECONSTRUCTION.

All Ayes. Motion carried.

Schedule National Night Out on Tuesday, August 1, 2023

City Administrator Bryan Bear reminded Council that in the past Council had attended neighborhood parties along with Fire Department and Washington County Sheriff's Office personnel. He recommended Council schedule a meeting to attend 2023 National Night Out events on Tuesday, August 1, 2023.

Weidt made motion, Klein seconded, to schedule National Night Out as a meeting to attend neighborhood events on August 1, 2023.

All Ayes. Motion carried.

Vacancy on the Browns Creek Watershed District

City Administrator Bryan Bear informed Council of vacancies on the Browns Creek Watershed District Board. Residents interested in being appointed to the board could contact City Hall.

Expansion of Xfinity High Speed Internet to the Northeastern Hugo

City Administrator Bryan Bear informed Council the City was recently notified that Comcast was awarded a grant to do a project that would provide Comcast service to 190 residents and 21 businesses located in the northeastern section of Hugo that were shown to be underserved. The grant was being paid for with ARPA Funds and will be done at no cost to the City. Comcast will extend its network to provide 1.2 Gbps download and 200 Mbps upload, which exceeds Minnesota's 2026 state speed goal.

Adjournment

Klein made motion, Miron seconded, to adjourn at 7:35 p.m.

All Ayes. Motion carried.

Respectfully Submitted,

Michele Lindau, City Clerk

Scandia

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**	
	Solar Energy Systems Overlay District	SES-O

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]	SES-O	Use Specific Regulations Section Reference
Land Use	Lower St. Croix River Corridor Overlay	Shoreland Management Overlay	Aggregate Mining Overlay	Floodway Overlay	Flood Fringe Overlay	Solar Energy Systems Overlay	
Permitted Uses in Base Zoning District (Table 153.300.020-2), except as further regulated in this Table		P	P		P	P	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	CUP	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 ~~$1~~2 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(~~3~~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.

l. 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

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

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 canvasing 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 Morell, City Administrator

Cottage Grove

§ 11-4-13: SOLAR ENERGY SYSTEMS:

A. Purpose: Cottage Grove supports the use of solar energy systems in appropriate zoning districts within the City. The development of solar energy systems should be balanced with the protection of the public safety and the existing natural resources in Cottage Grove. This Section provides for the regulation of the construction and operation of solar energy systems in Cottage Grove, subject to reasonable conditions to protect the environment, public health, safety, and welfare. The provisions of this Section shall apply within all zoning districts. In no case shall the provisions of this Section guarantee rights to solar access.

B. Definitions: The following words, terms and phrases when used in this Chapter shall have the meaning ascribed to them in this Section except where the context clearly indicates a different meaning.

COMMUNITY SOLAR GARDEN: A solar electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off site from the location of the solar energy system, under the provisions of Minnesota Statutes Section 216B.1641.

PHOTOVOLTAIC SYSTEM: An active solar energy system that converts solar energy directly into electricity.

SOLAR COLLECTOR: A device, structure, or a part of a device or structure for which the primary purpose is to capture sunlight and transform it into thermal, mechanical, chemical, or electrical energy.

SOLAR DAYLIGHTING: A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

SOLAR ENERGY: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY DEVICE: A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, or solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization.

SOLAR ENERGY SYSTEM: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

SOLAR ENERGY SYSTEM, GRID INTERTIE: A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

SOLAR ENERGY SYSTEM, GROUND MOUNTED: A freestanding solar energy system mounted directly to the ground using a rack or pole rather than being mounted on a building.

SOLAR ENERGY SYSTEM, OFF GRID: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

SOLAR ENERGY SYSTEM, ROOF MOUNTED: A solar energy system mounted onto the roof of a building.

SOLAR FARM: A commercial facility that converts sunlight into electricity, whether by photovoltaic (PV), concentrating solar power devices (CSP), or other conversion technology, for the principal purpose of wholesale sales of generated electricity.

SOLAR HEAT EXCHANGER: A component of a solar energy device that is used to transfer heat from one (1) substance to another, either liquid or gas.

SOLAR HOT AIR SYSTEM: An active solar energy system that includes a solar collector to provide direct supplemental space heating by heating and recirculating conditioned building air.

SOLAR HOT WATER SYSTEM: A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

SOLAR MOUNTING DEVICES: Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

C. General Standards. Solar energy systems in accordance with the standards in this Section are allowed as a permitted accessory use in all zoning districts.

1. Wall Mounted Solar Energy Systems: Wall mounted solar energy systems must be flush with the wall and are prohibited facing a public street.

2. Roof-Mounted Solar Energy Systems:

a. Roof mounting devices and roof mounted solar energy systems shall be flush mounted on pitched roofs, parallel to the roofline.

b. Roof-mounted solar energy systems mounted on a flat roof of a building located in a nonresidential district may be mounted at an angle to the roof to improve their efficiency; however, the highest point of a solar collector shall not be more than five feet (5') from the surface of the roof, measured in a straight line above the roof upon which the solar collector is mounted.

c. Roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built or as required by Building Code.

d. Exterior piping for solar hot water systems is prohibited to extend beyond the perimeter of the building.

e. Roof-mounted solar energy systems shall comply with the maximum height requirements for the zoning district in which they are located.

f. Roof-mounted solar energy systems shall use colors that blend with the color of the roof.

g. Reflection angles from collector surfaces shall be oriented away from neighboring windows. Where necessary, screening may be required to address glare.

3. Ground-Mounted Solar Energy Systems:

a. Ground mounted solar energy systems may only be erected on properties consisting of five (5) or more acres, regardless of the zoning district in which they are located.

b. Ground mounted solar energy systems shall not exceed fifteen feet (15') in height when oriented at maximum tilt as measured from the ground to the highest point of the solar collector or related appurtenance.

c. Ground-mounted solar energy systems shall comply with the accessory structure setback standards for the applicable zoning district in which they are located, except as otherwise required in this Section. Solar energy systems shall not extend into the minimum front, rear, or side yard setbacks when oriented at minimum or maximum design tilt.

d. Ground-mounted solar energy systems are prohibited in the front yard of properties located within the MUSA. Ground mounted solar energy systems are permitted in the front yard of properties located outside the MUSA, but must comply with the minimum front yard setback as required in the zoning district they are located in or such greater distance as may be required in this Section.

4. Heliostats: Heliostats are prohibited in all zoning districts.

D. Additional Requirements:

1. Public Easements: Solar energy systems shall not encroach on public drainage or utility easements.

2. Glare: Solar collectors shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways, and shall not emit unreasonable glare as determined by City Staff.

3. Building Permit Required: All solar energy systems require a building permit. A building permit application and plan submittal must comply with the following requirements:

4. Applications for Solar Energy Systems: An application to the City for a building permit under this Section shall contain information, including, but not limited to, the following:

a. A building permit application.

b. A site plan of existing and proposed site conditions.

c. Description and depiction of solar energy system.

d. Number of solar collectors to be installed.

e. Location and spacing of solar collectors and mounting devices.

f. Applications for ground mounted solar energy systems shall identify existing vegetation on the installation site (list vegetation type and percent of coverage; i.e., grassland, plowed field, wooded areas, etc.), and provide a maintenance plan for controlling vegetative growth on site upon installation of the solar energy system.

g. A description of the method of connecting the solar collectors to a building or substation and a signed copy of the interconnection agreement with the local electric utility shall be included or a written explanation outlining why an interconnection agreement is not required.

h. Planned location of underground or overhead electric lines connecting the solar energy system to the substation or distribution line.

i. New electrical equipment other than at the existing building or substation that is the connection point for the solar energy system.

j. Manufacturer's specifications and recommended installation methods for all major equipment, including solar collectors, mounting systems and foundations for poles or racks. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

k. Existing and proposed (if existing grade will be altered) topography at two foot (2') contours.

l. A completed glare study that demonstrates that there will be no unreasonable glare generated by the solar energy system and that any glare generated shall not be directed onto adjacent buildings, properties, or roadways or otherwise adversely impact neighboring properties as deemed necessary by City Staff.

5. Grid Interties: For all grid intertie solar energy systems, all power lines shall be placed underground within the interior of each parcel and between the solar energy system and its connection to the electric grid. The collection system may be placed overhead near substations or points of interconnection to the electric grid. All grid intertie systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility. Off grid systems are exempt from this requirement.

6. Special Exceptions: Solar collectors and solar energy systems with a cumulative area of six (6) square feet or less are permitted in all zoning districts and are exempt from the provisions of this Section. Examples of these systems include outdoor accent lighting systems, power supply for traffic control systems, powering a water pump for water gardens, telecommunication systems, backup power systems during power outages, and similar solar energy systems, as long as the system has a cumulative area of six (6) square feet or less.

E. Community Solar Gardens and Solar Farms: Community solar gardens and solar farms are permitted with an interim use permit subject to the following requirements:

1. Ground Mounted Community Solar Gardens and Solar Farms: Ground mounted community solar gardens and solar farms are permitted only in those areas shown on Exhibit A in Resolution 985 on file in the City, and must comply with the following requirements:

a. A minimum of five (5) acres of land is required. All ground mounted solar energy systems and solar collection appurtenant equipment must set back a minimum of three hundred feet (300') from all property boundary lines.

b. Vegetative screening and buffering of the ground-mounted solar energy systems will be required as part of the conditions of approval. Screening may include walls or fences.

c. The electrical connection systems shall be placed underground within the interior of each parcel and between the solar energy system and the point where the interconnection to the electric grid is made.

2. Roof Mounted Community Solar Gardens and Solar Farms: Roof mounted community solar gardens and solar farms are permitted on flat roofs on principal structures in all zoning districts regardless of lot size, and must comply with the following requirements:

a. All feeder lines and grid interties shall be placed underground between the solar energy system and the point where the interconnection to the electric grid is made. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

b. Roof-mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted or as required by Building Code.

c. Roof-mounted solar energy systems must abut an existing electric distribution system for purposes of making the interconnection to the electric grid.

d. Solar energy systems are allowed on flat roofs on accessory structures only in non-residential zoning districts.

e. Solar collectors mounted on flat roofs on principal and accessory structures in non-residential zoning districts may be mounted at an angle, but no portion of the solar collector may extend more than five feet (5') above the surface of the flat roof.

F. Decommissioning: A decommissioning plan shall be submitted with all applications for community solar gardens or solar farm systems.

1. Decommissioning plans shall outline the anticipated means and cost of removing the solar energy system at the end of its serviceable life or upon the discontinuation of its use. The cost estimates shall be made by a competent party, such as professional engineer, a contractor capable of decommissioning the system, or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the system. Owners of solar energy systems may rely on manufacturer's data to submit estimates.

2. Decommissioning of the system must occur within ninety (90) days from either of the following:

a. The end of the system's service life; or

b. The system becomes a discontinued use.

3. A system shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed during the year the system is discontinued and submitted to the Zoning Administrator outlining the steps and schedule for returning the system back into service.

4. The City may, at its discretion, require the owner and/or operator of the solar energy system to provide financial security in the form of a cash escrow, bond, or irrevocable letter of credit in an amount equal to one hundred twenty-five percent (125%) of a cost estimate for decommissioning the system.

5. The owner of the property where a community solar garden or solar farm is located must notify the City in writing when feeder lines and/or grid interties are disconnected from the local utility transmission line.

G. Abandonment: If a solar energy system remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at its expense after a demolition permit has been obtained. Removal shall include removal of the entire solar energy systems, including all solar collectors, mounting structures, and related components.