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What Local Governments Should Know About Michigan's New Renewable Energy Siting Policies

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This document includes our best current understanding of Michigan's new renewable energy siting policies, Public Acts 233 and 234 of 2023. As of November 2024, PA 233 is now in effect. The information in this document is intended for educational purposes only and should not be interpreted as legal advice. Local officials are strongly encouraged to consult with a municipal attorney.

For local governments wondering what they should do right now, if you haven't already, start a conversation with your neighboring local governments to find out how they plan to act. If your jurisdiction is interested in adopting a CREO but neighbors are not, you may want to consider a different option, since each local government in a proposed project needs to have a CREO in order to unlock the "guaranteed" benefits of the CREO option over a "workable" option.

If you choose a path that requires amending your zoning ordinance (i.e., CREO or "workable"), then you should quickly move to make amendments. Any amendments to the master plan will need to follow the procedures of the Michigan Planning Enabling Act and any amendments to the zoning ordinance will need to follow the procedures of the Michigan Zoning Enabling Act. You can find a sample CREO, annotated sample zoning ordinances, checklists for local governments navigating the MPSC and CREO processes, and workable ordinance guidance on our website or through EGLE's Renewable Energy Academy. There are also recorded online webinars, regional trainings, resources, and presentations available or planned through the Renewable Energy Academy, local government associations, including the Michigan Townships Association, and through the Michigan Association of Planning.

We have updated this document in light of the MPSC's October 2024 Application Filing Instructions for the implementation of the law. Additionally, in March 2025, the MPSC published FAQs, with specific answers for local governments, applicants, and the public and landowners. We will work to answer additional questions that arise from communities as the law goes into effect.

We wish to thank colleagues associated with the Michigan Association of Planning, Michigan Townships Association, Michigan Municipal League, and MSU Extension for providing feedback on the original questions and content. If you believe any information contained in this document is incorrect or have additional questions you'd like answered, please don't hesitate to contact us at krol@umich.edu.

Frequently Asked Questions (Click question to jump to the answer):

1) **What is Public Act 233 of 2023?**
   - Public Act 233 of 2023, signed by Governor Whitmer on November 28, 2023, makes significant changes to the permitting process for utility-scale renewable energy facilities, including solar, wind, and energy storage. The Act creates an option for developers to go directly to the Michigan Public Service Commission (MPSC) to construct a utility-scale renewable energy facility if each affected local unit of government does not have a compatible renewable energy ordinance (hereafter CREO). In communities where the local units of government have adopted a CREO, which is defined as being no more restrictive than the provisions in section 226(8) of the Act[1], the developer must first have its proposed project reviewed at the local level. If the project is denied by any of the local units of government, then the developer may submit the application to the MPSC.
   - This law, which is referenced by a new amendment to the Michigan Zoning Enabling Act[2], resides as a new "Part 8: Wind, Solar, and Storage Certification" in the "Clean and Renewable Energy and Energy Waste Reduction Act"[3] which lays out the newly amended renewable energy, energy storage, and energy efficiency targets that utilities must meet.
   - This law took effect on November 29, 2024.

2) **There is a lawsuit challenging the MPSC's October 2024 Application Filing Instructions and Procedures. What is the lawsuit about, and what is its current status?**
   - Following the passage of PA 233, the Commission directed MPSC staff to hold public meetings with experts, local governments, project developers, and other constituents to answer questions and collect guidance and related information to inform the MPSC permitting process. This resulted in a draft application instructions document published in June 2024. After the public provided comments and input, the application instructions were edited and, on October 10, 2024, the Commission ordered the adoption of the final PA 233 Filing Application Instructions and Procedures.
   - On November 12, 2024, Foster Swift Collins & Smith, P.C., appealed the MPSC's order on behalf of more than 75 municipalities, challenging specific aspects of the October 2024 PA 233 Filing Application Instructions and Procedures.[4]
   - The appeal argues that the MPSC should have gone through the state rule-making process under the Administrative Procedures Act, rather than the contested case process it followed, and therefore should be unable to use the October instructions. The appeal also challenges the MPSC's interpretation of several key definitions established by PA 233, specifically the definitions of a CREO and an Affected Local Unit (ALU), and the inclusion of hybrid facilities.
   - On November 22, 2024, Foster Swift Collins & Smith, P.C. filed a motion for a preliminary injunction to prevent the MPSC from implementing the October 2024 Order, which would go into

[1] Section 221 (f)
[2] Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 et seq. The amendment was through a companion bill HB 5121 which became PA 234 of 2023.
[3] 2008 PA 295, (MCL 460.1013)
[4] Paul Egan. Nov, 2024. "Close to 80 local governments appeal MPSC's plans to override zoning for wind and solar." Detroit Free Press. https://www.freep.com/story/news/local/michigan/macomb/2024/11/19/local-governments-appeal-michigan-public-service-commission-plan-siting-wind-solar/76412221007/

effect on November 29, 2024.[5] On January 14, 2025, the court denied the motion, allowing implementation of the law to proceed.[6]

- As of July 2025, the Michigan Court of Appeals has made no other decisions, nor taken action to pause the law. To follow this case (COA #373259), refer to this website.

3) What projects does the new permitting process laid out in PA 233 apply to?

- The new permitting process laid out in PA 233 solely applies to wind, solar, and energy storage projects above the size thresholds listed in the Act.[7] This refers to any solar energy facility with a nameplate capacity of 50 megawatts or more, any wind energy facility with a nameplate capacity of 100 megawatts or more, and any energy storage facility with a nameplate capacity of 50 megawatts or more *and* an energy discharge capability of 200 MW hours or more. Any solar energy, wind energy, or energy storage facilities below these thresholds are subject to conventional local zoning. While the law is silent on whether the capacity thresholds refer to AC or DC power, the PA 233 Application Filing Instructions measure nameplate capacities in AC.[8]
- There is still some ambiguity about how hybrid projects (which include solar or wind plus energy storage) are to be measured. (This ambiguity is a part of the ongoing lawsuit mentioned in FAQ #2.) The MPSC instructions say that hybrid projects can add the nameplate capacity of each technology to determine eligibility for seeking a certificate from the state .[9]
- Exception for cities: There is also a special exception in the law for cities and villages. The law does not apply (i.e., developers may not seek a permit from the MPSC) in cases where a project is located entirely within the boundaries of a city or a village AND one of the following applies: the municipality is the owner of participating property in the project, is the developer of the facility, or owns an electric utility that would take service from the proposed facility.[10] In all other cases, including where only a portion of the project is outside of the municipal borders, the developer may seek a certificate from the MPSC unless all of the local units have a CREO. Due to the large footprint of wind and solar facilities, it is rare that the project would be entirely within municipal limits. However, storage projects that meet the 50MW/200MWh threshold in the law could be sited on as few as 5 acres, so may easily be located entirely within municipal boundaries.

4) How will this law affect existing (operational) projects or projects that have been approved by the local government, but have not yet been built?

- PA 233 isn't expected to affect existing projects, as there would be little impetus for a developer who has already gained approval at the local level to instead go to the MPSC.
- However, any alterations that the developer wants to make to the project that aren't covered by the approved local site plan–for example, to add battery energy storage, alter the footprint of a solar array, or repower with taller wind turbines–may constitute a new project, at which point the

[5] Foster Swift Press Release on PA 233 lawsuit
[6] MLive article on PA 233 lawsuit court ruling on appeal to pause implementation
[7] Section 222 (1)
[8] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pg. 2
[9] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pg. 2-3
[10] Section 222 (4)

developer would need to decide whether it can work with the local ordinance or if it would prefer to go to the MPSC (assuming the local government does not have a CREO).

- Further, Public Act 234 of 2023[11] made an amendment to the Zoning Enabling Act that impacts approved site plans. It stipulates that "a renewable energy project that received special land use approval…on or after January 1, 2021 is considered to be a prior nonconforming use and the special land use and the special land use approval shall not be revoked or modified if substantial construction has occurred or if an expenditure equal to 10% of the project construction costs or $10,000, whichever is less, has been made."

5) PA233 specifically applies to "affected local units" (ALUs). What is an ALU? Who counts? And, why does it matter?

- PA 233 defines an "affected local unit" as "a unit of government in which all or part of a proposed energy facility will be located."[12] In the MPSC's October 10 Filing Application Instructions, an "affected local unit" is defined as "a unit of local government *exercising zoning authority* in which all or part of a proposed energy facility will be located (emphasis added)."[13] Due to this difference in definition and the varying opportunities offered to ALUs during the MPSC process, the definition is contested in the lawsuit discussed in FAQ #2.
- While any project is in both a county and a township or city, only one unit can exercise zoning authority, and so only one of these units is considered an ALU according to the MPSC definition. For example, when a township hosts a project in a county with county-level zoning, the county will be considered the ALU.
- This definition is important for a multitude of reasons. First, the ALU is granted status as an intervenor in the MPSC's siting process. Other units of government may apply to intervene but they are not automatically granted this status. Second, only the ALU receives the intervenor funds. And third, only the ALU receives a host community agreement (see FAQ #26). Furthermore, if the local government wants to enact a CREO, only the ALU needs one.

6) How does PA 233 apply in unzoned places?

- Projects proposed in unzoned communities – while they still must comply with other state and federal laws – do not require any land use permitting process, as was the case prior to PA 233. The Act applies only to affected local units (ALUs), which the MPSC has clarified as local governments exercising zoning authority (see FAQ #5).[14] Unzoned areas, by this definition, are not ALUs and therefore can't require a developer to go through the state process according to PA 233 Section 222(2) nor require CREOs as clarified in the MPSC instructions.[15] As noted in FAQ #2, a lawsuit challenges the definition of ALU and specifically whether PA 233 ought apply to all local governments, including unzoned ones.

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[11] Public Act 234 of 2023
[12] Section 221(a)
[13] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pg. 1
[14] MPSC AFIP, pg. 1, Oct. 10th Order. U-21547 pg. 9 -10
[15] MPSC AFIP, pg. 43

- The MPSC instructions provide one key exception to this consideration of unzoned places: In cases where a project spans multiple jurisdictions and the developer applies for the MPSC certificate, the Commission reviews the entire project, including the portion in unzoned areas, in all circumstances. See FAQ #8 for more on multijurisdictional projects.

7) **How does PA 233 apply to communities with state land, e.g. does a CREO have influence over state development on state land?**
   - PA 233 does not treat projects on state land differently than private land, nor does it change whether or not a project developed on state land would be subject to local zoning. Whether an energy project is subject to local zoning–or, by extension, PA 233–is largely a function of the ownership of the project and/or specific stipulations within the rules of the land. If the infrastructure is privately owned, it is generally subject to zoning while infrastructure that is to be owned by a higher level of government (e.g., the state, public university, or school district) is often not subject to zoning, though these entities sometimes seek local government approval.
   - When renewable energy projects are sited on public lands, there are tax implications for the hosting local government depending on whether the energy infrastructure is owned by the state or by a private developer. Though the land owned by the State is generally exempt from local property taxes, any privately owned energy infrastructure is taxable and therefore the private developer is responsible to pay personal property taxes to the local government in which the project is located.[16]

8) **What happens if a project spans more than one affected local unit of government?**
   - The developer must seek permitting approval from each of the ALUs.
   - If, however, one or more *ALUs do not have CREOs, "or after attempts to site the project in ALUs have failed, the MPSC will review the entire project if an application is filed, including the portions of the project that are in areas with CREOs and areas without CREOs."*[17]
   - Regardless of whether your community permits your portion of the renewable energy project locally through a CREO or a Workable Ordinance, if attempts to permit the other portion of the project in a neighboring community without a CREO fail, or your neighbor requests that the project go through the state process, the entire project may be reviewed at the MPSC.

Permitting pathways

9) **Are there only two pathways for permitting applicable projects: at the local level through a CREO, or at the state level through the MPSC? Do we *have* to adopt a CREO?**
   - The short answer is no.
   - This law gives developers the *option* to go through the state-level process.[18] Developers may still choose to go through the local process, whether or not the local government has a CREO, and the law makes clear that local policies, including zoning, are in "full force and effect" for projects

[16] Learn more about local property tax impacts of large-scale wind and solar projects here.
[17] MPSC AFIP, pg. 43
[18] Section 222 (2)

where the MPSC has not issued a certificate through this new state-level process.[19] The MPSC's Application Filing Instructions and Procedures further suggests that when a local ordinance does not meet the definition of CREO, the developer may still choose to follow the local siting process if that local process allows for facilities to be sited.[20] An ordinance, which still allows for renewable energy siting even though it is not compatible with the CREO definition, is commonly considered a workable incompatible ordinance (WIO). (For more information on WIOs, refer to FAQ #34.)

- Adopting a CREO, though, is the only option that guarantees the developer must first go through the local process.[21] Said another way, local governments that have existing zoning ordinances in place may keep those ordinances even if they don't meet the definition of a CREO. However, if the developer finds the ordinance is unworkable or just prefers getting a certificate through the MPSC, then they can follow the rules laid out in the Act to initiate approval by the MPSC, which, while requiring notice and a public meeting[22] in each affected local unit, need not comply with local zoning.

10) So, what are a local government's options in light of PA 233, and what are the pros and cons of each option?

- There are effectively four options available to local governments in light of PA 233: Two options involve projects being approved through the MPSC, and two involve siting at the local level. These are further explained in an online video from EGLE's Renewable Energy Academy (REA).[23]
- Option 1: Compatible Renewable Energy Ordinance (CREO)
  In this option, the community would amend its ordinance to be in compliance with section 226(8) of the law. Given the narrow definition of a CREO and the fact that almost all renewable energy zoning ordinances in Michigan limit the location of these land uses in some way, e.g. through districting or an overlay, and/or include elements not listed in the law, we believe that there are currently very few CREOs in the state. So while this will require a zoning amendment, for most jurisdictions, the amendment would be relatively straightforward following a sample CREO template.
    - Pros: This is the only option to ensure that a developer must seek approval from the local level, though for a large project that spans borders, it may only stay local if your neighbors also adopt CREOs or workable ordinances (see FAQ #8 on multijurisdictional projects). Because communities using the CREO are held to strict time limits to approve or deny the application, it is generally seen as a developer's most preferred path, and so communities with CREOs may, in fact, attract developers that can advance climate or economic goals. Projects approved at the local level are eligible for the $5k/MW Renewable Ready Communities Award.[24]

[19] Section 231 (4)
[20] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pg. 43
[21] Section 223 (3)
[22] Section 223 (1)
[23] See EGLE's REA page and the mentioned video available here: https://www.youtube.com/watch?v=iDk28cA-pq0
[24] The Michigan Department of Environment, Great Lakes, and Energy provides information on the Renewables Ready Communities Award at https://www.michigan.gov/egle/about/organization/materials-management/energy/rfps-loans/renewables-ready-communities-award

- Cons: There is no opportunity to add local requirements that deviate from those laid out in the law, including provisions commonly in zoning such as screening, without incurring some risk. Further, there are penalties for local governments with a CREO that fail to approve the project within the time limits laid out in the law, deny a project that meets the standards set in section 226(8) of the law, or amend their zoning ordinance to impose additional restrictions after a project has been announced (see FAQ #19 on consequences).
- How to: You can use existing sample language for CREOs[25] to create a new section within your ordinance. This section should include all relevant definitions, as well as the standards and procedures applicable to each energy technology (wind, solar, or energy storage) that you wish to include in your ordinance. Our checklist for communities with CREOs lays out the process timelines relevant if a project is proposed in a community with a CREO.[26]

- Option 2: Voluntary MPSC Certification

  The law provides an option for communities to "request the MPSC to require" that all large-scale projects seek approval from the MPSC.[27] This request can happen proactively or only once a developer notifies the community about a project. For example, communities can make a simple amendment to their ordinance or pass a resolution directing developers to the MPSC. Alternatively, communities can also just tell any developers, in writing, that they do not have a CREO and prefer the developer to work with the MPSC. Importantly, communities may also choose not to react to a developer's request at all, which also enables the developer to take the application to the MPSC.
  - Pros: It requires the least amount of effort by the local government in establishing zoning or evaluating projects, and allows the MPSC to apply its full range of criteria to the project. The local government will be kept informed through the mandatory local engagement processes and will receive the $2k/MW Host Community Agreement and funds to intervene at the MPSC, but can remain largely uninvolved.
  - Cons: There is less opportunity to insert local community priorities into the approval if your zoning ordinance does not articulate these preferences. It may also be controversial to willingly send projects to the state. Further, projects approved through the MPSC path are not eligible for the Renewables Ready Communities Award.[28]
  - How to: As laid out above, local governments can clarify through ordinance amendments or resolutions that large-scale wind, solar, or energy storage (whichever technology you'd like to specify) shall require a siting certificate from the MPSC pursuant to PA 233 section 222 (2). Our checklist for local governments navigating the MPSC siting process lays out relevant steps on how local governments can participate in the MPSC process.[29]

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[25] A sample CREO is available on our webpage at https://graham.umich.edu/project/MI-energy-siting. Other institutions have created sample CREOs as well, such as the Michigan Townships Association at https://michigantownships.org/now-available-mta-sample-workable-ordinances-updated-sample-pa-233-documents/ (members only).
[26] The CREO checklist is available on our webpage at https://graham.umich.edu/project/MI-energy-siting
[27] PA 233 section 222 (2).
[28] The Michigan Department of Environment, Great Lakes, and Energy provides information on the Renewables Ready Communities Award at https://www.michigan.gov/egle/about/organization/materials-management/energy/rfps-loans/renewables-ready-communities-award
[29] The MPSC checklist is available on our webpage at https://graham.umich.edu/project/MI-energy-siting

- Option 3: Workable Incompatible Ordinance (WIO)
  There is no definition in PA 233 of a workable ordinance, but it is generally understood as a zoning ordinance that is in some way more restrictive than a CREO, but one that a developer finds preferable to MPSC approval (see FAQ #34). Some communities may already have WIOs. Others may need to amend or adopt an ordinance that is workable.
    - Pros: This option allows local governments to include local preferences for development within their ordinance and maintain local control, but within bounds (otherwise, it would not be "workable"). Projects approved at the local level, even through a non-CREO ordinance, are eligible for the $5k/MW Renewables Ready Communities Award.
    - Cons: This requires the most deliberative community conversation about what your priorities are and what you are willing to compromise to keep the process at the local level, which may lead to tough conversations. There is no clear line about what is workable, and what might be workable to one developer may not be workable to another, so there is no guarantee that a developer will not seek approval from MPSC.
    - How to: Creating a WIO means thoughtfully balancing community vs. developer interest, or in other words, creating an ordinance that a developer prefers over the state path but still includes more local preference than a CREO. Finding that balance requires lots of work: familiarize yourself with what the state process requires of developers and which of those things you may be able to do without, review data showing what has been workable in the past,[30] and prioritize your community's preferences in case not all can be cut. For more on developing WIOs or assessing if your existing ordinance may be workable, see FAQ #35, or review EGLE's Renewable Energy Academy video on approaches to crafting a WIO.[31]
- Option 4: Unworkable ordinance
  This is the option for communities that want to limit projects or wish to articulate more priorities in their ordinance than a developer finds workable. It comes with the risk that a developer may take the project to the MPSC. If that happens, the local government will receive intervenor funds to contest the case, but the decision to approve the project will ultimately rest with the MPSC.
    - Pros: It allows the community to articulate all of its wishes and push any controversy or trade-offs between them to the MPSC, and it is possible that the MPSC will deny the project or incorporate more of the community priorities than the community would have been able to achieve locally. Where a community has already adopted an incompatible ordinance, this can be the lowest-cost option. The community, by not claiming CREO status, will be able to receive the intervenor funds as well as the $2k/MW Host Community Agreement.
    - Cons: This approach places all of the discretion of weighing priorities in the hands of the MPSC, rather than the community. Further, given that the whole purpose behind PA 233 was to overcome incompatible ordinances, it is unlikely that the MPSC will regularly deny projects, especially those that do not first try to find a workable solution.
    - How to: Adopt or maintain an incompatible ordinance, and importantly, do not claim that you have a CREO or intent to amend your ordinance further. Formally request the

[30] To help communities seeking to develop a workable ordinance, we have compiled ordinances that were in place during the permitting of large renewable energy projects:
https://graham.umich.edu/media/files/Developing-Workable-Renewable-Energy-Ordinances.pdf
[31] See EGLE's REA page and the mentioned video available here: https://www.youtube.com/watch?v=LCQaNV0Tvmc

developer to permit the project locally. If the developer takes the project to the MPSC, see our checklist for local governments navigating the MPSC siting process.[32]

11) Why might a developer prefer to apply for permitting at the local level rather than opting for the MPSC path? And why can workable ordinances work?

- A recent nationwide study[33] of renewable energy developers found that developers themselves believe state-level processes are more expensive and result in fewer community benefits. Unless the MPSC process differs significantly from these other state-level processes, it is likely that developers will continue to prefer to work with local governments, either through a CREO or another "workable" ordinance. We propose several reasons why we believe WIOs can work:
    - *To save time*: The MPSC has up to a year to approve or deny an application for a certificate upon receiving the developer's complete application,[34] whereas CREOs have 120 days – and up to 240 days upon mutual agreement – to approve or deny once the site plan is filed.[35] While a workable ordinance may not have the same time limit, if it can proceed more quickly than the state, it may be in the developer's interest to work it out locally.
    - *To save money*: At the MPSC process, a developer must fund a local intervenor compensation fund (up to $150k),[36] plus pay the Host Community Agreement of $2k/MW to each ALU.[37] Furthermore, the contested case process at the MPSC is more costly than most local zoning processes: The MPSC's PA 233 fee schedule prescribes developers to pay a $10k base application fee for MPSC staff to process the application, and it includes additional fees for surplus staff hours, consultants on specialty issues, court fees, and other expenses.[38]
    - *To enable local governments to be eligible for the Renewables Ready Communities Award*: Only projects approved through local processes are eligible for the $5k/MW RRCA Award. This award is paid by the state, not the developer (see FAQ #20 on how CBAs work through CREO).
- As a result, local governments may have some room to negotiate for more in their ordinances, or accept additional benefits voluntarily offered by the developer, if it means that they can save the developer time and/or money.

12) Will a moratorium halt the PA 233 process or any renewable energy projects? Is a moratorium a fifth permitting pathway?

- The short answer is no.
- Before PA 233, a moratorium on renewable energy may have halted project development in an affected local unit. Now, PA 233 states: "A local unit of government is considered not to have a

[32] The MPSC checklist is available on our webpage at https://graham.umich.edu/project/MI-energy-siting
[33] Access the Lawrence Berkeley Lab study (2024) at https://emp.lbl.gov/publications/survey-utility-scale-wind-and-solar
[34] Section 226 (5)
[35] Section 223 (3) b
[36] Section 226 (1)
[37] Section 227 (1)
[38] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pages 4-7

compatible renewable energy ordinance if it has a moratorium on the development of energy facilities in effect within its jurisdiction."[39] As a result, a moratorium allows a developer to take the project to the MPSC. Before doing so, however, the developer still must first offer to meet with the chief elected official. If the local official says in writing that the jurisdiction has a CREO, then the developer must first apply through the local process.

- If the local government does not have a CREO and the moratorium ends while the developer is in the process of seeking approval via the MPSC's path, the developer gets to choose whether or not to continue on the MPSC path or apply for local approval.

13) From a local jurisdiction's perspective, if their ordinance is silent on energy, what are the pros/cons of staying the course and not addressing these energy technologies at all?

- The benefit of staying the course and sending any projects to the MPSC is that the local unit does not need to invest resources (both time and money) into developing planning and zoning, and can effectively push any controversy that a renewable proposal might bring onto state policymakers.
- The drawback of such an approach is that if the local unit does want to intervene before the MPSC,[40] not having thought through renewable energy facilities within the context of their overall land use planning (e.g., where renewable energy compliments or conflicts with future land use plans) may put them at a disadvantage.
- While a community may be tempted to wait to plan until a developer shows interest, that often is too late to have a thoughtful planning conversation. Proactively identifying priorities around renewable energy and incorporating those into your plans and ordinances establishes a starting point for negotiations with a developer. This is particularly important for determining where these projects should be allowed within your community. If a local government lacks any standards on the allowed use of utility-scale renewable energy projects in various districts and a developer has already identified a specific site, the community has less leeway to reactively apply location control.

Permitting Pathway 1: CREOs

14) What is a Compatible Renewable Energy Ordinance (CREO)?

- This remains one of the murkiest issues of PA 233 implementation. This definition is a subject of the lawsuit mentioned in FAQ #2, specifically whether or not a CREO may include the additional requirements that projects submitted through the MPSC may include.
- What we know:
    - PA 233 defines a CREO as one that is "no more restrictive than the provisions outlined in section 226 (8)" of the Act.[41] This section includes setbacks and sound standards for each technology, plus some technology-specific standards, including height limits for wind and solar, fencing requirements for solar, and flicker standards for wind. The Act is clear that CREOs may not have stricter standards than the provisions of section 226(8).

[39] Section 221 (f)
[40] Sections 226 (1) and 226 (3); also see our Checklist for Local Governments Navigating the MPSC Process
[41] Section 221 (f)

- According to the October 2024 MPSC Application Instructions, the MPSC states that a CREO includes requirements no more restrictive than those outlined in section 226(8) of PA 233, noting that a CREO may not include any other applicable or additional requirements outside those outlined in section 226(8). Those provisions include:

Solar Zoning Items	PA 233 Sec 226(8)
Setback: Occupied community buildings and dwellings on non-participating properties	300 ft
Setback: Public road right-of-way	50 ft
Setback: Non-participating property lines	50 ft
Fencing	National Electric Code requirements
Height	25 ft
Noise	55 dBA Leq (1-hour)
Lighting	"Dark Sky Friendly Solutions"

Wind Zoning Items	PA 233 Sec 226(8)
Setback: Occupied community buildings and dwellings on non-participating properties	2.1x Total Height
Setback: Residences and other structures on participating properties	1.1x Total Height
Setback: Public road right-of-way	1.1x Total Height
Setback: Non-participating property lines	1.1x Total Height
Setback: Communication and electric lines	1.1x Total Height
Height	Defer to Federal Aviation Association
Noise: Nearest dwelling located on an adjacent nonparticipating property	55 dBA Leq (1 hour)
Shadow Flicker: Any occupied community building or non-participating residence	30 hours (1 year)
Lighting	"Dark Sky Friendly Solutions"/Light Mitigating Technology
Radar Interference	Defer to MPSC

Energy Storage Zoning Items	PA 233 Sec 226(8)
Setback: Occupied community buildings and dwellings on non-participating properties	300 ft
Setback: Public road right-of-way	50 ft
Setback: Non-participating property lines	50 ft
Noise	55 dBA Leq (1-hour)
Lighting	"Dark Sky Friendly Solutions"
Additional Compliance	NFPA 855 "Standard for the Installation of Stationary Energy Storage Systems"

- In drafting a CREO, consult with your municipal attorney and refer to U-M's Sample CREO or MTA's Sample CREO (members only) for template ordinances that may serve as a guide. Adopt the CREO through the process outlined in your jurisdiction for adopting zoning ordinances. For more information on the CREO process, refer to our checklist for local governments on adopting and navigating the CREO process.[42]

15) What is the CREO process?

- If an affected local unit (ALU) has a CREO, the developer is required to first have the project reviewed at the local level. PA 233 sets a specific sequence of events that must occur in the CREO process, which are outlined below:
    1. A developer shall offer in writing to meet with the chief elected official of each affected local unit, or the chief elected official's designee, to discuss the proposed site plan. This offer must be delivered by email and by certified U.S. mail at least 60 days before the developer holds a public meeting in each affected local unit.
    2. Following this meeting offer, the chief elected official has 30 days to notify the developer that the ALU has a CREO. Upon receiving notification from the official, the developer may file for a land use permit with the ALU.
        - If the chief elected official fails to respond to the offer to meet within thirty days of receipt of the certified mail, the developer may proceed as if there is no CREO and begin the MPSC certification process.
    3. Upon receiving an application from the developer, the ALU shall approve or deny the application within 120 days. The applicant and the ALU may jointly agree to extend this deadline by up to 120 days.
        - If the ALU fails to timely approve or deny the application, denies an application that complies with the requirements of section 226(8), or amends their zoning ordinance to be more restrictive than section 226(8) after notifying the developer that they have a CREO, the developer may proceed in applying for a certificate with the MPSC.

[42] The sample CREO and the CREO checklist are available on our webpage at https://graham.umich.edu/project/MI-energy-siting

4. The energy facility must begin construction within 5 years after the date the permit was issued, and any challenges to the issuance of the permit are settled. The ALU may extend this timeline at the request of the developer without requiring a new application.

- These deadlines are laid out more fully in our CREO checklist.

16) If a local unit has compatible regulations for one type of energy system (e.g. solar), but not the other two (e.g., wind and energy storage), does the ordinance still count as a CREO?

- While there is some ambiguity in the law, MPSC's Application Filing Instructions and Procedures states that "a CREO may be an ordinance for a single technology such as wind, solar, or energy facilities or it may be an ordinance that addresses multiple technology types".[43]

17) If there is a dispute between a local government and a developer about whether or not an ordinance is a CREO, how will it be resolved?

- The law is silent on this issue. The MPSC states in their Application Filing Instructions and Procedures that resolving disputes between applicants and ALUs regarding CREOs is not within the Commission's jurisdiction.[44] Further, the order states that if a developer files for MPSC approval while in dispute with a local government about their CREO status, the ALU, the MPSC Staff, or another intervenor, may file a motion to dismiss or stay the application, of which the administrative law judge would make the determination.[45]

18) Can a local government charge application fees and hire consultants to review CREO applications?

- PA 233 is explicit that the MPSC may determine and collect fees from the applicant to cover administrative and consulting costs associated with processing the application[46], but it is silent on whether local governments can do the same within the bounds of a CREO.
- It might be reasonable to assume that local governments can pass the costs associated with the review of applications to the applicants as well as is commonly done in local zoning, though consult with your municipal attorney on the reasonableness of fees.

19) What are the consequences if a jurisdiction with a Compatible Renewable Energy Ordinance (CREO) denies a project?

- If a community with a CREO fails to timely approve or deny an application,[47] denies an application that complies with section 226 (8),[48] or amends its zoning ordinance to be more restrictive after

[43] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, page 42
[44] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, page 43
[45] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, page 43
[46] Section 226 (4)
[47] Section 223 (3) c(i)
[48] Section 223 (3) c(ii)

the local government notifies the developer that it has a compatible ordinance,[49] the developer may submit their application to the MPSC.[50] In that case, the developer does *not* need to[51]:

    - Hold a public meeting,[52] nor
    - Grant each local affected unit of government funds for the local intervenor compensation fund (which may be a combined total of up to $150,000 for affected local units).[53]

- Further, if the MPSC approves a project that the local government previously denied via the CREO process, the local government ordinance is no longer considered a CREO.[54] The law is unclear about whether the CREO designation is lost forever or if an ordinance can be amended to become a CREO in the future, and the MPSC is silent on the matter.
- Even if a jurisdiction's ordinance is rendered non-CREO for one technology (e.g., wind), it could claim CREO status if presented with an application for a different technology (e.g., solar) so long as the regulations for that other technology are in conformance with the statute (see FAQ #16).
- Additionally, In the case of a project that spans multiple zoning jurisdictions, the community that denies a project also impacts their neighboring jurisdictions. This is because the MPSC reviews applications *per project*, not per *ALU*. Therefore, if an ALU with a CREO denies the project application, or an ALU with a WIO ends up being unworkable, the developer could seek MPSC certification, bypassing the local process of all other ALUs involved. The consequences listed above do not apply to the other ALUs involved in the project, only the ALU in which attempts to site the project through a CREO or WIO failed.[55]
- Lastly, regardless of the process by which these projects get approved, the municipality will still receive tax revenue from the project.

20) How do host community benefits work if a project is permitted through a Compatible Renewable Energy Ordinance (CREO) at the local level or in unzoned local units of government?

- The $2k/MW host community agreement[56] that is required for projects that are approved by the MPSC is not automatically guaranteed for communities that approve projects at the local level, either through a CREO or other "workable" local zoning ordinance or in an unzoned community where there is no local government zoning approval. Local units of government that host renewables projects may be able to enter into a host community or community benefits agreement, and many current hosts of renewable energy projects have entered into such an agreement. However, the details of those agreements are important to determine their legality and enforceability. Communities that wish to enter into a host community agreement outside of the MPSC process should consult their municipal attorney.
- The Renewables Ready Communities Award[57] provides $5,000/MW for communities that host large renewable energy projects, but this incentive is only available for projects approved through

[49] Section 223 (3) c(iii)
[50] Section 223 (3) c
[51] Section 223 (3) d
[52] Section 223 (1)
[53] Section 226 (1)
[54] Section 223 (5)
[55] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, p. 21
[56] Section 227 (1)
[57] EGLE Renewables Ready Communities Award

a local process. The award, administered by the Michigan Department of Environment, Great Lakes, and Energy, guarantees that at least half of the award (i.e., $2,500/MW) goes to the "host" –defined as a township, city, or village.[58] In situations where a county has zoning authority, the county is eligible for the other $2,500/MW; in all other situations, the "host" receives the full $5,000/MW.

Permitting Pathway 2: MPSC

21) Who is the MPSC? What is their role?

- The Michigan Public Service Commission, headquartered in Lansing, is a regulatory agency that regulates public utilities in Michigan, including natural gas services, electric power, and telecommunications. They seek to ensure reliable and accessible energy and telecommunications services at reasonable rates for the public. Though the MPSC did not previously interact with renewable energy permitting before PA 233, the MPSC is very involved in energy and governing electricity transmission, distribution, and the grid in Michigan. The MPSC is composed of three appointed Commissioners who are supported by over 200 MPSC Staffers responsible for providing specialized support.
- Under PA 233, the MPSC is responsible for overseeing the renewable energy state siting process. Once applications are submitted, the MPSC process begins with staff checking the application for completeness, then moving to the contested-case proceedings. The contested case proceedings include a pre-application meeting between the applicant and the MPSC Staff, and a technical conference where ALUs may participate and ask questions, both of which are virtual. Ultimately, though, the MPSC Commissioners will decide whether or not to approve the renewable energy project.
- If a project is approved by the Commission, all required permits must be obtained prior to construction and included within a completion report prior to commercial operation. The MPSC docket assigned to the project remains open for the lifetime of the project and will be updated as post-construction, operation, and decommissioning information is required (see FAQ #22).

22) What is the MPSC process, timeline, and key steps?

- First, a renewable energy developer will offer to meet with the ALU's chief elected official.[59] If the ALU does not have a CREO, the developer will move forward with the state siting process. The developer will hold a public meeting in each jurisdiction to discuss the project and share the site plan. The developer must provide notice to the clerk and publish notice in a local newspaper or online. Then, the developer prepares their application to the MPSC.
- Upon filing an application with the MPSC, the developer must send a copy to each ALU and make a deposit into their local intervenor fund. After the application is filed, the MPSC Staff will schedule a prehearing and also issue a Notice of Hearing to the public for information on the contested case proceeding. The MPSC will determine whether the application is complete, and after that, the contested case proceedings may be held.
- The Commission has 365 days after the submission of an application to approve or deny an application. If a project is approved by the Commission, all required permits must be obtained prior to construction and included within a completion report prior to commercial operation. The

[58] EGLE Renewables Ready Communities Award Dashboard
[59] Navigating the PA 233 Process: A Checklist for Local Governments

MPSC docket assigned to the project remains open for the lifetime of the project and will be updated as post-construction, operation, and decommissioning information is required.

- For more specific information on the process, key steps, and a timeline for local governments, refer to this resource: Navigating the PA 233 Process: A Checklist for Local Governments.[60]

Community Engagement in the MPSC Process

23) A public meeting is a central component of the MPSC process. Who organizes this meeting and what does the local government need to know/do?

- According to the PA 233 Application Instructions and Procedures, the developer is responsible for holding (and thus organizing) a public meeting in each ALU.[61] The developer must hold the public meeting between 5:00 pm and 7:30 pm if held on a traditional workday of Monday through Friday, unless otherwise requested by the chief elected official of the ALU. Additionally, the developer must record or transcribe the meeting to be submitted as evidence in the contested case proceedings.
- An ALU's government may participate or assist in the organization of the public meeting(s), however, it is not necessary to do so.
- While the developer must submit notice to the clerk, it is the developer's responsibility to advertise the meeting via a public notice that includes the date, time, and location.[62] The notice must also include a description and location of the proposed renewable energy facility, and a website where the site plan is accessible to the public.

24) Section 225 (1) j of PA 233 calls for a "summary of community outreach and education efforts" to be submitted during the MPSC application process. What will this include?

- As part of their application to the MPSC, applicants must provide a comprehensive summary of their outreach and education efforts, including public meetings and meetings with elected officials, locally impacted community groups, environmental organizations, and labor union representatives.[63] [64]
- The summary should include the dates, times, and length of each meeting, copies of all presentation or education materials, the number of attendees for any public meetings or meetings with elected officials, and the number of commenters and topics discussed during the meetings. Additionally, the developer must address in their application any accommodations or changes made to the project design to address the public comments received in the public meetings. For meetings with locally impacted community groups, environmental organizations, and labor union representatives, the summary should also address who participated in the consultation, a summary of findings, and any follow-up actions identified.[65]

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[60] The MPSC checklist is available on our webpage at https://graham.umich.edu/project/MI-energy-siting

[61] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, page 44

[62] MPSC AFIP, pg. 45-46

[63] MPSC AFIP, pg. 11

[64] MPSC Staff Incompleteness Memorandum from 8/1/2025 on case U-21932, pg. 12

[65] MPSC AFIP, pg. 11

25) Besides the public meeting, are there other opportunities for public engagement in the MPSC process? What is the format for the public comments sought in this section, and how do they factor into the process?

- Soon after a developer submits an application to the MPSC, they are also required to mail letters to addresses within 1 mile of the proposed project (2 miles for a wind project),[66] providing the case number and instructions on how public comments can be submitted to the MPSC.
- Public comments on any case may be submitted by mail, email, or online to the MSPC E-dockets. The MPSC's "Get Involved" webpage provides directions on submitting comments via each of these methods; instructions for commenting online are here. Comments may also be shared during the public comment portion of any regular commission meeting. None of these comments, though, are considered part of the "evidentiary record," and so cannot be the basis for a commission decision.[67] However, these comments may be brought into the case in testimony brought by case intervenors.
- Who can intervene in the case? MPSC staff, the project developer, participating landowners, adjacent nonparticipating property owners, and ALUs may participate as intervenors by right–meaning that they don't need a judge's permission to join, but they do need to formally file a petition to intervene at least 7 days before the pre-hearing (which usually takes place about 2 months after the application is filed).[68] Any other interested person may petition to file as an intervenor in a case, but their participation is determined by the administrative law judge assigned to the case, as laid out in Rule 306 of the Administrative Hearing Rules.[69]

Host Community Agreements & Intervenor Funding

26) For projects that go through the MPSC process, which unit(s) of government will receive the $2k/MW payment?

- PA 233 states that projects that go through the state process "shall enter into a host community agreement with each affected local unit." The agreement requires a one-time payment of $2,000/MW "located within the affected local unit."[70]
- As noted in FAQ #5, the MPSC's instructions define an ALU as the local government with zoning jurisdiction. Until an agreement has been reached in the lawsuit, the MPSC will continue to use this definition, and HCAs will go to the local government with zoning jurisdiction.

27) Are there any restrictions on the use of funds so long as it is "agreed to by the local unit and the applicant" (developer)?

- As far as we know, no. The law allows "The payment shall be used as determined by the affected local unit for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant."

28) What are intervenor funds, and how do they work?

- Intervenor funds are one-time grants from the applicant to each ALU in which a project is located. This grant covers costs for an ALU's participation in the contested case proceedings

[66] MPSC AFIP, pg. 7
[67] MCL 24.272 et seq.; Michigan Rules of Evidence 801 and 802
[68] Section 226(3)
[69] Mich. Admin. Code R. 792.10410(1)
[70] Section 227 (1)

through the MPSC process. In total, $150,000 will be split equally between each ALU, with no ALU receiving more than $75,000.[71] Only ALUs may receive these funds; not landowners, constituents, or other local governments that are not considered ALUs, including unzoned jurisdictions.

- Within 24 hours of filing an application with the MPSC, a developer will deposit intervenor funds into a local intervenor compensation fund. Within 15 days of the prehearing, ALUs that have chosen *not* to intervene will return the funds to the developer. If an ALU chooses to intervene, ALUs must "file an official exhibit in the case prior to the conclusion of cross-examination or the close of the record containing paid invoices for legal services for participation in the case and an estimate of funds to be spent on legal services for briefing and exception."[72] All remaining intervenor funds must be returned to the developer 30 days following the date on which answers to petitions for rehearing on the Commission's final order are due.
- This timeline is further discussed in this resource: Navigating the PA 233 Process: A Checklist for Local Governments.[73]

Developer Application and Contested-Case Proceedings

29) Which parts of a developer's application to the MPSC require ALU input?

- An ALU can comment on any aspect of an application at the public meeting by providing public comment and can formally participate as an intervenor. But there are also particular elements of the developer's application that may require ALU input.
- Host Community Agreement: The developer must provide $2,000/MW to the ALU once the project is operational and needs to have the agreement in hand with their application. If your ALU refuses to enter into a Host Community Agreement, the developer may instead enter into a Community Benefits Agreement with a community-based organization(s).
- Emergency Response Plan (ERP): The developer is expected to "provide evidence of consultation or good-faith effort to consult with local first responders and county emergency managers to ensure that the ERP is in alignment with acceptable operating procedures, capabilities, resources, site access, etc." Developers must include a commitment to conduct or provide funding to conduct site-specific training drills with emergency responders before commencing operation, and upon request while the facility is in operation.
- Fire Response Plan (FRP): The developer is expected to "provide evidence of consultation or a good-faith effort to consult with local fire department representatives to ensure that the FRP is in alignment with acceptable operating procedures, capabilities, resources, etc." For energy storage project applications, developers must provide a commitment to offer to conduct or provide funding to conduct site-specific training drills with local emergency responders before commencing operation, and at least once per year while the facility is in operation.
- Decommissioning plan: This plan should include a commitment and plan to coordinate with landowners, ALUs, and local governments not exercising zoning authority before beginning decommissioning activities. While you may ask to contribute to this plan for future coordination in decommissioning, funds and responsibilities for enforcing decommissioning are held by the MPSC.

[71] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pg. 21
[72] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pg. 21
[73] The MPSC checklist is available on our webpage at https://graham.umich.edu/project/MI-energy-siting

- Drainage and Road Agreements: The developer *may* also prepare documents related to impacts on public and private drainage systems, including county and intercounty drains, and an agreement with the County Road Agency regarding reimbursement for the repair and restoration of County roads modified or damaged during construction.
- Construction Supervision: A proposed minimum condition in the application instructions is that the developer either hire a third-party construction monitor or obtain construction and building permits from the ALU. The developer may want to discuss what your expectations are for such permits.

30) How can local governments participate in the contested-case process? What can local governments weigh in on?

- After a developer's application is deemed complete by the MPSC, a prehearing will take place where an administrative law judge will lay out the schedule for the rest of the case. There, the judge will schedule the upcoming technical conference and the rest of the contested case proceedings, similarly outlining where intervening parties, such as local governments, may take part.
- If a local government chooses to intervene, it may be helpful to consider these specific places where local governments may weigh in, along with the appropriate documentation to support a case:
    - Content from public meetings
    - Impacts on local land use
    - Alternative locations analysis
    - Public benefits
    - Conditions
- For more information, refer to Step 5 in Navigating the PA 233 Process: A Checklist for Local Governments.[74]

31) The MPSC plans to consider a project's impact on local land use, the percentage of land dedicated to energy generation in the area, and whether the project unreasonably diminishes farmland (226(7)). Do we know how the MPSC might apply these standards?

- Not yet. Until the MPSC decides upon the first application, we won't know exactly how it is thinking about these issues. However, we do have some clues about what it might be looking for, since the MPSC's Application checklist asks the applicant to provide several details that will presumably be used to assess each of these.
- Nearly 50 rows (starting at Row 51) of the application checklist are aimed at gathering the context of local land use, and Rows 100-106 of the application checklist ask the developer to justify impacts on some specific impacts, including natural resources, noise, visual impacts, and traffic. In the case of Acceleration Solar–the first application to the MPSC–the MPSC staff asked the developer to provide further justification for how the proposal minimizes visual impacts by, for example, "identifying any visual impact or aesthetic requirements in the zoning ordinance…and explaining how the project design meets or exceeds those standards, or justification for not doing so."[75]

[74] The MPSC checklist is available on our webpage at https://graham.umich.edu/project/MI-energy-siting
[75] Aug 1 Case U-21932, pg. 4

- Row 192 of the application checklist asks the developer to calculate "the percentage of land within the township, city, or village" as well as "the percentage of land within the county dedicated to energy generation at the time of the application." MPSC staff's memo on the case of Acceleration Solar provides suggestions for specific datasets that may be consulted for these calculations.
- On farmland impacts, Rows 239-244 of the application checklist ask the developer to provide detailed information about farmland types and acreage. MPSC staff's memo on the case of Acceleration Solar reiterates that these calculations should be provided at the township, as well as county-levels, and provides links to datasets that may be consulted for these calculations.

32) How do we ensure that there will be adequate training for emergency responders after the project is approved? Whose responsibility is this training?

- Emergency response training is the responsibility of the developer. The PA 233 Application Instructions and Procedures document details that the Fire Response Plan that is submitted with the application shall include a commitment by the developer to offer to conduct, or provide funding to conduct, site-specific training drills with emergency responders before commencing operation of a wind, solar, or battery project. For battery projects, developers must continue to conduct this training at least once per year while the facility is in operation.[76]
- If there are concerns about ongoing training or the responsibility for that training, this would be something to include in testimony for the MPSC process or to include in a development agreement for a project approved at the local level.

33) What is a local government's role post-approval if the project gets approved by the MPSC?

- If a project is approved by the MPSC, it will remain the primary body governing the project throughout its lifetime. They will require a number of post-construction, operation, and decommissioning reports, and the MPSC docket assigned to the project will remain open for the lifetime of the project to track these reports.
- The local government has no prescribed role, but may wish to familiarize itself with the annual and periodic obligations that the developer must fulfil. Developers are also required to coordinate with the local government before beginning decommissioning activities.
- If the local government has any questions or concerns about the project, it can reach out to MPSC staff (LARA-MPSC-Siting@michigan.gov)

Permitting Pathway 3: Workable Incompatible Ordinance

34) What's a "workable", non-CREO ordinance?

- To be clear, the law does not refer to a "workable" ordinance; it's a concept used to help suggest what might be another option for local communities.
- A "workable" zoning ordinance is one that doesn't satisfy the definition of a CREO (i.e., it may have larger setback distances or lower noise levels than in PA 233), but is one that a developer finds still allows them to build a viable project. Indeed, most of the existing wind and solar farms in the state have been built under "workable" local zoning ordinances that include regulations that

[76] MPSC AFIP, pg. 30

extend to topics beyond what is listed in section 226(8) and/or which have different setback or noise thresholds.

- For more information and resources on "workability," refer to UM's Center for EmPowering Communities' guidance on developing workable ordinances.[77]

35) How can I tell if my ordinance is "workable" and/or create a workable ordinance?

- "Workable" ordinances hinge on "reasonableness": they provide enough land and not-too-excessive regulations (e.g., for screening or landscaping) to make a project economically viable for the developer. The point at which such provisions become too burdensome in the opinion of an energy developer is the practical point at which the developer will apply for a certificate from the MPSC instead of seeking zoning approval at the local level.
- Also, note that what is "workable" in one community for one project in one community may not be "workable" in another community for another project. A larger setback distance, for example, may be more "workable" in a community with larger lots than one with smaller lots. Furthermore, what one developer finds "workable" may not be "workable" to another. Additionally, what developers may have been willing to make work in 2020, prior to the passage of PA 233, may no longer be on the table now that there is an alternative permitting pathway available.
- To create a balanced, workable ordinance that is tailored to the specific circumstances of your community:
    - Think about workability as a balancing scale. Start with the MPSC's project standards, conditions, and process. Of these, rank the standards and conditions in order of importance to your community, then identify the zoning items you would change to reflect more of your community's preferences.
    - To balance out the more restrictive standards you may have just added, identify some standards and conditions that you'd be willing to give up or soften in your ordinance.
    - If a developer is interested in siting a project in your community, they will likely approach the local government to tell you where your ordinance may be unworkable, allowing you to amend if needed to maintain the local process. Use this flexibility to make concessions on less critical items to secure firmer control over what matters most to your community.
- EGLE's Renewable Energy Academy (REA)[78] also offers resources on workable zoning ordinances, such as a recorded online webinar and the REA Workability Activity, an interactive, "build your own workable ordinance" card game.

36) From a local jurisdiction's perspective, what are the advantages and disadvantages of adopting a workable ordinance compared to a Compatible Renewable Energy Ordinance (CREO)?

- Because they both involve local approval, CREOs and "workable" ordinances are both eligible for the $5,000/MW Renewable Ready Communities Award.

[77] Developing a Workable Ordinance
[78] Visit michigan.gov/REA to access to the recorded webinars and the slide decks

- The advantage of a CREO is that it precludes the developer from going straight to the MPSC; a workable ordinance has no such guarantee. Further, while a CREO likely requires a zoning amendment (i.e., there are practically no local governments with CREOs right now), it is significantly more straightforward than trying to determine what is safely "workable."
- The drawback of a CREO, however, is that it doesn't allow a local government to articulate any additional priorities, and most communities have priorities that extend beyond the standards in section 226(8).
- Another comparative drawback of a CREO is that if a community with a CREO takes too long to review the application, changes its ordinance to add additional restrictions, or ultimately denies a project that otherwise complies with section 226(8), local governments face consequences including loss of intervenor funds (see FAQ #19). By contrast, communities with WIOs will be, in all cases, entitled to intervenor funds.[79] A community that never claims to have a CREO, and rather chooses the workable option, will not be held to such consequences should the project move to the MPSC.

Planning and Land Use

37) What is the role of master planning in all this?

- As required in the Michigan Zoning Enabling Act, local zoning ordinances should be based on a master plan.[80] Even in the case where a master plan does not explicitly address renewable energy, communities may instead identify existing goals and objectives in their current Master Plan that might support the standards of the renewable energy ordinance. In doing so, a municipality could develop a supporting document called a Rezoning Justification Memo (see FAQ #38) that outlines the zoning ordinance standards and their alignment with certain Master Plan goals, providing further explanation for why certain zoning decisions were made.
- While PA 233 does not explicitly reference the consideration of an affected local units' master plan, a developer seeking state certification is required to provide in their application land use information and explanatory information about how the facility minimizes land use impacts. This includes presenting information about socioeconomic and demographic profiles, major industries, and land use plans for the properties where the project is proposed. As noted in Question 31, it also includes considerations of visual and aesthetic impacts, impacts on agricultural land, and the overall footprint of energy generation in the ALU and county. Finally, when a project is proposed on undeveloped land, the developer must conduct an alternatives analysis. If a local government has weighed in on any of these issues in its master plan, it may aid in its testimony before the MPSC.

38) What is a rezoning justification memo? What should be included?

- Whenever a community changes its zoning ordinance, it should have some written record of the justification for the change. Specifically, zoning in Michigan must be based upon the community's

[79] MPSC Certificate for Solar Energy, Wind Energy, and Energy Storage Facilities Application Filing Instructions and Procedures, pg. 21
[80] MCL 125.3203

Master Plan and consistency with other state laws,[81] so this document lays out how the proposed change meets those requirements. This sometimes takes the form of a memo prepared by the jurisdiction's planner, or may be in the "whereas" clauses of the motion to rezone.

- In the context of renewable energy, a rezoning justification memo is a supporting document to a workable ordinance that serves to provide justification for the zoning standards set in the ordinance as being reflective of the community's goals set forth in their Master Plan. This document may be particularly helpful to point to in testimony before the MPSC in case the developer decides that permitting locally through the local ordinance is too cumbersome and instead seeks state certification. This document should demonstrate your community's priorities and your effort to accommodate renewable energy development reasonably within your community's preferences.

[81] MCL 125.3203