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MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

Playing Your Cards Right: Navigating Permitting for Large Renewables

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MAP Spring Institute – May 20, 2025

EGLE

UM's Center for EmPowering Communities

- Research on land use policy for renewable energy, community impacts

- Funding from State Energy Office in EGLE
  - Facilitate planning & zoning, e.g.:
    - More training, resources, review draft zoning ordinances, answer questions
    - Bus tours, connect you to MSU-Extension, other communities
  - Provide state-based data
  - Present pros and cons

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EGLE

EGLE → Energy Services Unit

- Zoning analysts with technical assistance backgrounds.
  - Not involved with development of PA 233
- Position is that local zoning is still effective & necessary.
  - Decision on how to apply this information is yours.

Where we've held "Renewable Energy Academy" PA 233 Workshops

Renewables Ready Communities Award (RRCA)

The RRCA provides up to $5,000/MW to permitters and hosts of utility-scale renewable energy projects which underwent local permitting after Oct. 2023. There is no deadline to **apply** — open until funds are depleted.

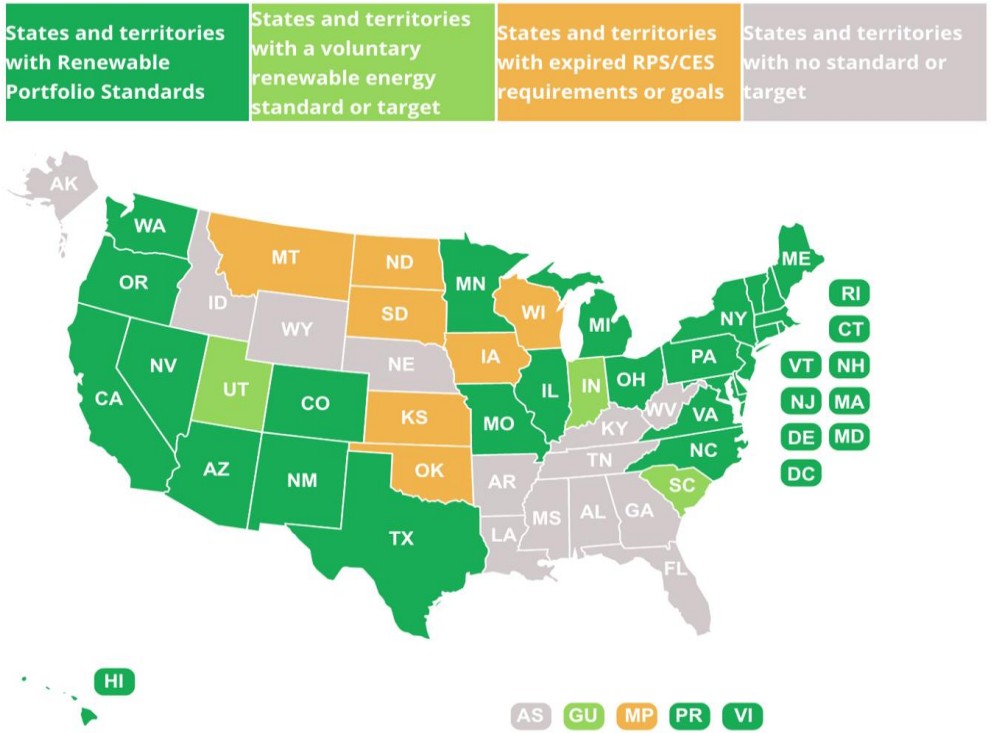
PA 233 requires developers to *pay communities* for State siting ($2k/MW). Pre-RRCA, this could have disincentivized communities from updating their ordinances. A grant from the State for *local* permitting ensures a municipality gets extra revenue down either path, and emphasizes a more win-win route for developers/local governments.

The Scope

Our goal is to help communities know their options in the new renewable energy siting landscape: **PA 233** and a Renewable Portfolio Standard (**RPS**) of 50% by 2030**.**

Bigger picture of renewables is out of scope.

- Taking policies *as is*. Discussing them is a valid conversation, but for a different occasion.
- Active appeal against PA 233 by ~80 jurisdictions
  - MPSC process will continue until court decision.



From Clearpath Energy, 2022

Public Act 233 of 2023

Creates an option for developers to ask the Michigan Public Service Commission (MPSC) to permit a grid-connected renewable energy project if an affected local unit does not have a “compatible renewable energy ordinance” (CREO).

This option is present as of Nov. 29th, 2024.

Solar Energy:
50 MW nameplate capacity

Energy Storage:
50 MW nameplate capacity with an energy discharge capability of 200+ MWh

Wind Energy:
100 MW nameplate capacity

1. A developer is not **required** to go to MPSC. They may stay local even with an “incompatible” ordinance.
2. Once at permitting, project already has a **voluntary landowner host**. No eminent domain.
3. **Exception**: A city or village is exempt IF the energy facility is located entirely within a city or village, AND IF the city or village EITHER is the owner of the participating property, OR is a developer of the facility, OR owns an electric utility that will take service from the energy facility.

4 Permitting Pathways - Preview

INCOMPATIBLE
Developer *can* call MPSC

Compatible Renewable Energy Ordinance (CREO)

Specific, prewritten zoning standards.

Permissive. Easy projects.

State-Level Certification (MPSC)

Developer (or ALU) asks MPSC to permit.

Project must meet MPSC's standards.

Workable Ordinance

Stricter than CREO, but reasonable for projects. *Ideally* stays local.

No two are the same.

Unworkable Ordinance

Too strict for reasonable development.

Likely shifts to MPSC.

Why “workable” ordinances can work

State siting gives developers a *backstop* of certainty for difficult cases, but it won’t be the first choice.

- MPSC is not green-lighting projects. Application requirements and staff recommendations will impose some thorough siting requirements on developers.

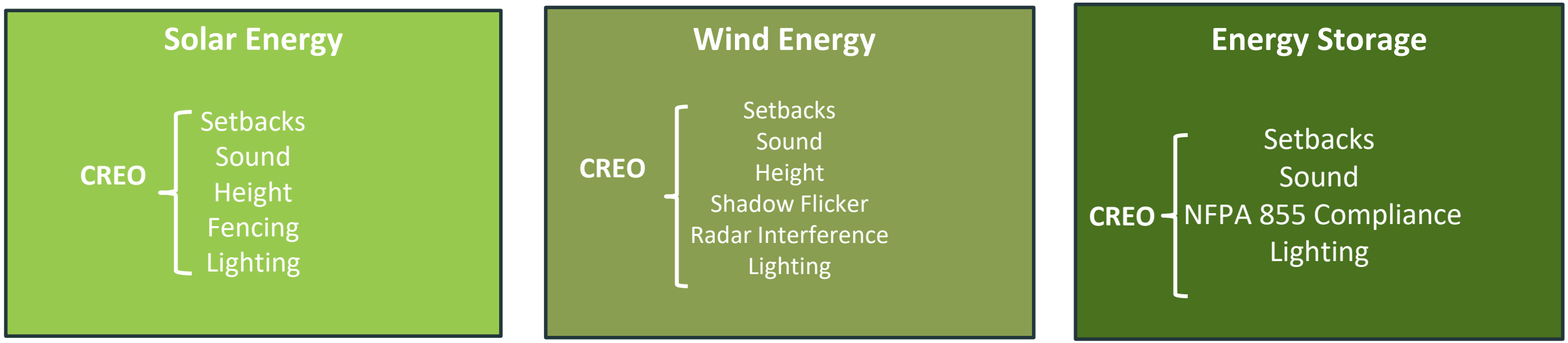
- As such, MPSC siting is expensive, time intensive, and unpopular, so many developers have expressed preference towards *workable ordinances*.

For most developers, CREO will be the top preference for its cheap & quick process… but next is a *workable local ordinance*, not MPSC.

Only when an ordinance becomes “unworkable” will a developer seek MPSC certification, which is time-intensive & costly.

Note: This isn’t true for all developers and projects.
MPSC certification is still a highly viable option in some cases.

What does a CREO cover?
The “floor” of a workable ordinance



- Our conservative interpretation is that anything more than this is incompatible
  - We think this helps local govts avoid “false CREO” penalties

- The numbers themselves are usually quite permissive; check the act itself

What does the MPSC Cover?
The “ceiling” of a workable ordinance

MPSC Imposed Conditions (Application Instructions and Procedures)

Solar Energy

CREO
- Setbacks
- Sound
- Height
- Fencing
- Lighting

- **Screening**
- **Vegetative Ground Cover**
- **Underground Facilities**
- **Sound Study + Compliance**
- **Pre-Operation Emergency Response Training + Ongoing upon request**

Wind Energy

CREO
- Setbacks
- Sound
- Height
- Shadow Flicker
- Radar Interference
- Lighting

- **Regular Reporting of Electricity Produced**
- **Sound Study + Compliance**
- **Shadow Flicker Study + Compliance**
- **Pre-Construction Reception Study + Restoration of any Lost Reception Level**
- **Pre-Operation Emergency Response Training + Ongoing upon Request**

Energy Storage

CREO
- Setbacks
- Sound
- NFPA 855 Compliance
- Lighting

- **Sound Study + Compliance**
- **Annual BESS Emergency Response Training**

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Additionally through MPSC:

MPSC Community Benefits and Project Requirements:

- *Developer pays* up to $75,000 to each ALU for intervenor's fund with no more than $150,000 in total for the project.
  - ALU, participating property owner, or non-participating property owner may intervene by right.

- *Developer pays* $2,000 per MW to each ALU for Host Community Agreement (HCA)

- Up to 365 days for the MPSC to make a decision

***Lawsuit Item: still uncertainty around the definition of "each ALU" as it relates to who all the developer needs to provide intervenor funds to.**

Additionally through MPSC:

MPSC will also require developers to demonstrate:

- That the project does not “unreasonably diminish farmland”
- That the project “does not present an unreasonable threat to public health or safety”
- That the project has labor & apprenticeship agreements for construction and maintenance
- “The percentage of land within the local unit of government dedicated to energy generation”
- Why alternative sites were not feasible

Why

CREO

- Interested in hosting renewables; want to be first in line.
- Guarantees that the *process* stays local, albeit performatively.
- Minimal municipal workload.
- RRCA.

MPSC

- Comfortable with the MPSC's process and conditions.
- Low municipal workload.
- Host Community Agreement and intervenor funds.
- Passes accountability to the State.

INCOMPATIBLE
Developer *can* call MPSC

Workable

- More zoning preferences than CREO; still makes room for renewables.
- If conversations are flexible and in good faith, unlikely for a developer to call MPSC.
- Maintains local process and RRCA.

Unworkable

- Expresses *all* community preferences.
- Lower workload than "Workable."
- Likely receives all MPSC path Why/Why Nots.

EGLE is not providing any legal advice through this presentation. The municipality should consult with legal counsel about any zoning decision.

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Why Not

CREO

- Cannot add more preferences. Denying a compatible project voids CREO.
- Penalties for “false CREO”
- Depends on neighbors.

MPSC

- Cannot add more preferences.
- Strong MPSC conditions, no case precedent yet.
- No RRCA
- No local process.

INCOMPATIBLE
Developer *can* call MPSC

Workable

- Requires well-informed ordinance **ASAP**.
- Context dependency means more work in the future.
- Risk of being called incompatible.

Unworkable

- High risk of losing local process and shifting to MPSC, incurring those “Why nots.”
- May turn away local-oriented developers.

EGLE is not providing any legal advice through this presentation. The municipality should consult with legal counsel about any zoning decision.

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How

CREO

- Pass a zoning ordinance no more restrictive than the standards laid out in Sec. 226(8) of PA 233.

(The most conservative interpretation of a CREO)

MPSC

- Don't pass or update your ordinance.
- Once project is proposed, you can request the MPSC to require developer to obtain certificate by contacting MPSC Executive Secretary and Staff.
  - Not required.

INCOMPATIBLE
Developer *can* call MPSC

Workable

- Start with MPSC process; add and/or trim to workability with local priorities.
- Pass well-informed ordinance & show willingness to converse.
- Don't claim compatibility and prepare to amend.

Unworkable

- Pass or maintain the incompatible ordinance.
- Say you do not have a CREO and have no intent of amending the ordinance further.
- Formally request that a developer permit the project locally.

****EGLE is not providing any legal advice through this presentation. The municipality should consult with legal counsel about any zoning decision.****

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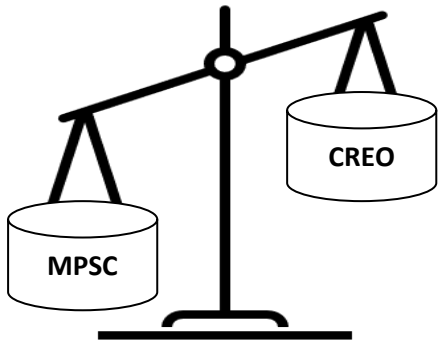
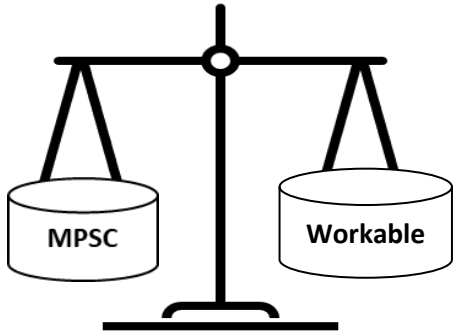
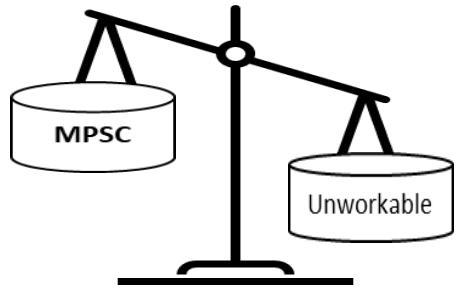
Workability is a Balance

- **Starting from the MPSC's Standards, Conditions, and Process:**
  - Rank the standards and conditions in order of importance to your community
  - Identify the zoning item(s) you would change to reflect more of your community's preferences
    - Consult with municipal attorney, planning professionals, and available data
  - Identify the standards and conditions you'd be willing to give up/soften
    - This frees up some wiggle room for community preferences while maintaining balance







Guidance on what's worked before

C. Commercial SES are permitted by issuance of a special use permit and approval of a final site plan by the Planning Commission in the A-1, A-1½, A-2, M-1, and M-2 districts. An application for special use permit and final site plan shall contain information required pursuant to Article 12 for special use permit approval, Article 14 for final site plan approval, and other information as required in this section and in this Ordinance.

3. General Standards. The following standards shall apply to all Private and Commercial SES unless otherwise specifically noted:

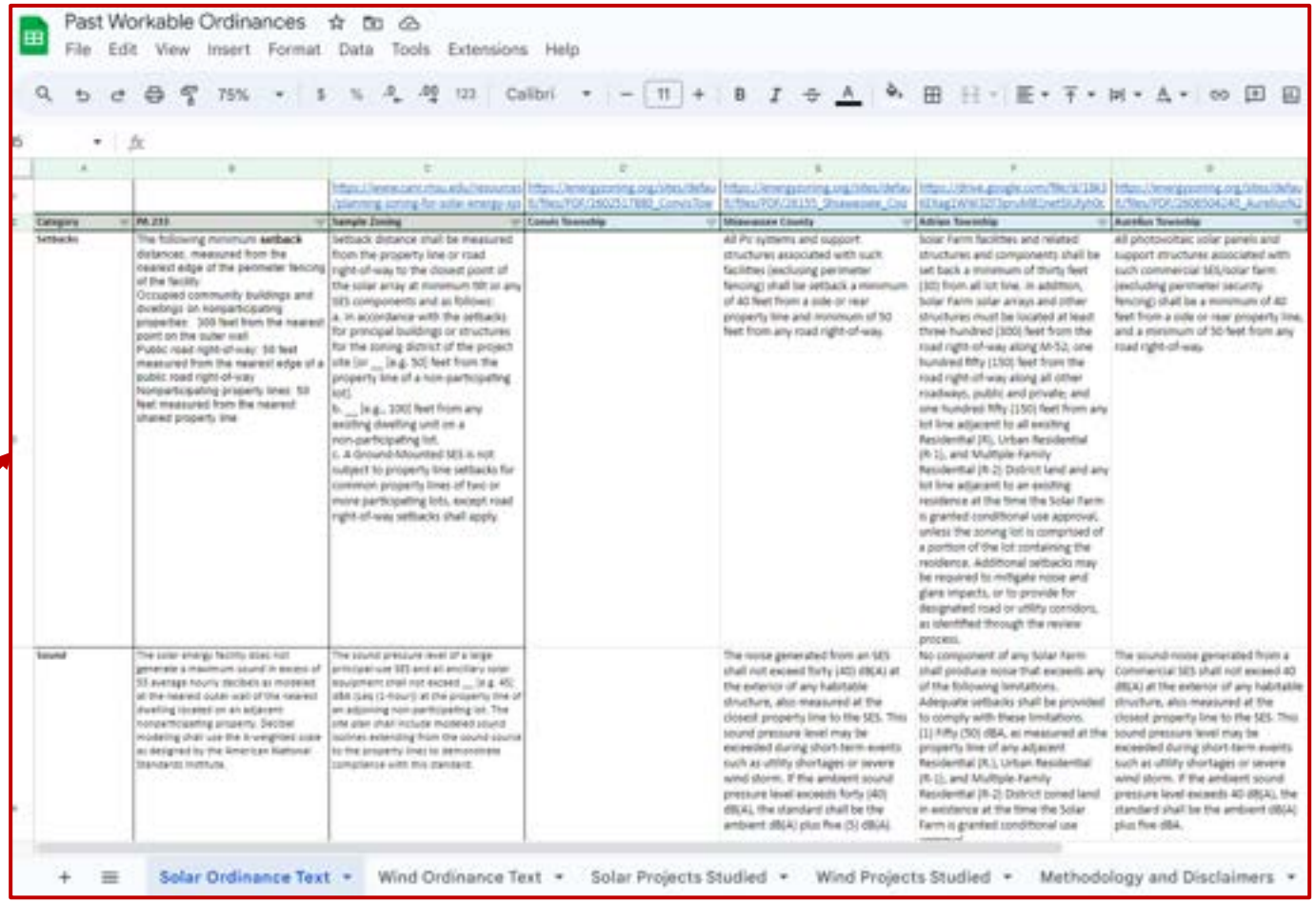
A. Design Safety Certification. The safety of the design of all private and commercial SES shall be certified by a Professional Engineer acceptable to the Zoning Administrator. The standard for certification shall be included with the application for development.

B. Electrical and Building Codes. All electrical compartments, storage facilities, wire conduit, interconnections with utility companies and interconnections with private structures will conform to national and local electrical codes. All SES shall comply with local building permit requirements.

C. Compliance with County Ordinances. Private and commercial SES shall be in compliance with all Ordinance requirements and other applicable ordinances, rules and regulations.

D. Setbacks. All Photovoltaic (PV) systems and support structures associated with such facilities (excluding perimeter fencing) shall be setback a minimum of forty (40) feet from a side or rear property line and a minimum of fifty (50) feet from any road right-of-way.

E. Height. All PV systems and support structures associated with such facilities shall be restricted to a maximum height of sixteen (16) feet when oriented at maximum tilt, except for rooftop and building mounted solar systems which rely upon Section 5.6.1 of the Ordinance for height permitting standards.



https://graham.umich.edu/project/MI-energy-siting

Example: Assembly Solar

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STRATEGY 1:
“FINE-TUNING” A CREO ITEM

Solar sound

CREO

NP Outer Wall*:
55 dBA Leq (1-hour)

** ["outer wall" measurement penalty]*

MPSC

NP Outer Wall*:
55 dBA Leq (1-hour)

+

Conditions of Approval:

1. Contract with a third-party acoustics expert for post-construction monitoring
2. Demonstrate compliance and maintain compliance through sound mitigating measures if necessary

Workable

NP Property Line:
Range between Ambient + 5 dBA Leq and 60 dBA LMax

Unworkable

NP Property Line:
Below 45 dBA LMax

Sound tweak-points

- Sound standards all include:
  - **Reading type:** *LMax* only must be exceeded once, *Leq* averages over a period (more wiggle room)
  - **Measurement location:** An ear at property line *or* inhabited structure
  - **Decibel amount:** Measurement location is much more important

Source	CREO	Past Projects (rough avg.)
Nearest property line	-	40-60 dBA Max
Inhabited structure	NP: 55 dBA Leq (1 hour)	-

- Sec. 226(8) solar sound has three permissive elements: average, structure, non-participating only

Solar setbacks

CREO

NP Property Line: 50ft

NP Structure: 300 ft

Public Road: 50 ft

MPSC

NP Property Line: 50ft

NP Structure: 300 ft

Public Road: 50 ft

Workable

NP Property Line: 15-500 ft

NP Structure: 200-500 ft

Public Road: 40-100 ft

P Property Line: 0-50 ft

P Structure: 0-300 ft

Unworkable

NP Property Line: 500+ ft

NP Structure: 500+ ft

Public Road: 100+ ft

P Property Line: 50+ ft

P Structure: 300+ ft

Solar height

CREO	MPSC	Workable	Unworkable
25 feet at full tilt	25 feet at full tilt	14 - 18 feet or district height	Below 14 feet

Solar decommissioning

CREO

Financial assurance **after deducting** salvage value:

- 25% on operation
- 50% by 5th year
- 100% by 10th year

MPSC

Same as CREO +

Conditions of Approval:

1. Repair all drainage systems damaged during construction and decommissioning
2. Demonstrate that financial assurance has been acquired and will be maintained

Workable

Decommissioning Plan agreed upon by developer and community, including financial assurance **after deducting** salvage value,
reviewed every 3-5 years:

- 100% upon permitting

Unworkable

Financial assurance **including** salvage value, reviewed and updated every 3-5 years
Recycling of all materials:

- 125 % upon permitting

STRATEGY 2:
“MIRRORING” AN MPSC ITEM

Solar screening

CREO	MPSC	Workable	Unworkable
	Condition of Approval: Agreement to implement screening, approved case-by-case by Commission	**Types of screening:** Landscaping or Privacy Fencing *Examples:* *Standards of underlying zoning district, if inadequate then PC may require along NP residential uses;* *or MSU-E/UM sample zoning guidebook*	**Types of screening:** Landscaping and Privacy Fencing, or Berming *Example:* *Multiple rows of trees at mature height all around project*

Solar ground cover

CREO

MPSC

Evaluation Criteria: Vegetative groundcover in *consideration* of MSU's Michigan Pollinator Habitat Scorecard **+ similar Condition of Approval**

Workable

Sites not enrolled in PA 116 must meet one or more of the four types of dual use:

1) MSU Pollinator Habitat Planning Scorecard for Solar Sites: score of 76 or more
2) Conservation cover
3) Forage cover
4) Agrivoltaics

Unworkable

Must meet one of two types of dual use:

1) Forage cover
2) Agrivoltaics

Solar approval process

CREO	MPSC	Workable	Unworkable
By Right + Site Plan Review	Commission contested case process	Special Land Use	

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STRATEGY 3: PAY EXTRA ATTENTION TO "DEALBREAKER" ZONING ITEMS

Solar location control

CREO

All districts

MPSC

All districts +

Evaluation Criteria:

1) Will not unreasonably diminish prime farmland
2) Shall consider feasible alternative development locations
3) Shall consider impact on local land use, including % of land dedicated to energy generation

Workable

! Districting !
! Lot minimums !

Implemented in a way that still provides ample and suitable land for renewable development + large patch size + access to transmission/substation is considered

Especially problematic when a developer has already identified a project location!

Unworkable

! Overlays !
! Districting !
! Lot Maximums !

Implemented in a way that does not provide ample and suitable land for renewable development

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STRATEGY 4:
GET YOURSELF EASY WIGGLE ROOM

Review timeline

CREO	MPSC	Workable	Unworkable
120 - 240 days	365 days	Streamlined by resolution (less than 365 days)	No time limit

Additional financial benefits

CREO

Not required of developer through zoning.

Reminder: If permitted locally, eligible for RRCA

MPSC

Guaranteed $2,000/MW **Host Community Agreement** for Zoning Authority

Workable

Community Benefits Agreement
Request financial benefits tied to direct impact of project on community.

Reminder:
If permitted locally:
Eligible for RRCA
If permitted at state:
Guaranteed HCA

Unworkable

Community Benefits Agreement
Require $/MW CBA that's greater than the MPSC's HCA requirement.

Reminder:
If permitted locally:
Eligible for RRCA
If permitted at state:
Guaranteed HCA

STRATEGY 4:
GET YOURSELF EASY WIGGLE ROOM

Other examples for easy wiggle room include:

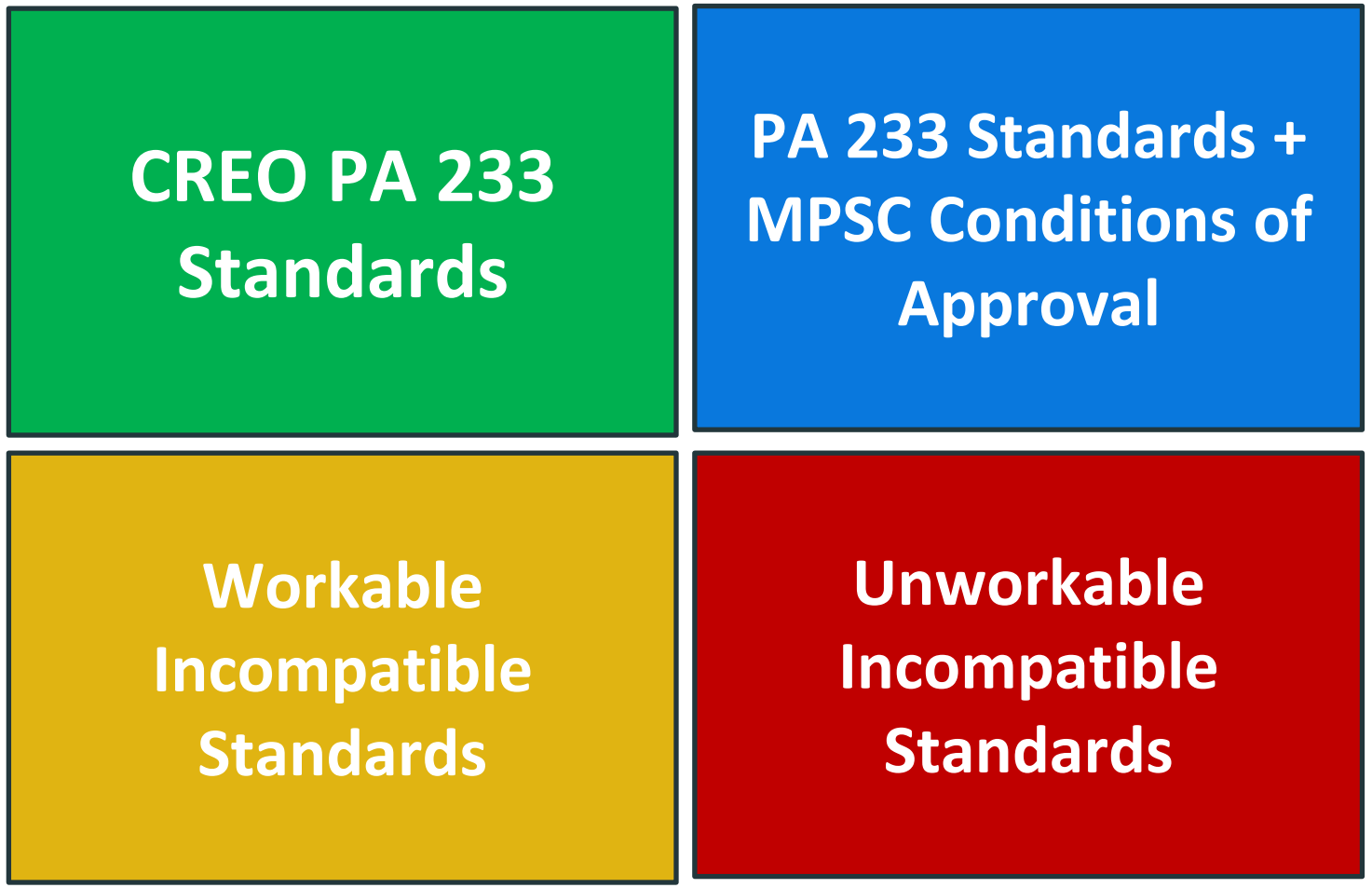
- MPSC's Application Filing Requirements that you can live without
- Alternative locations analysis
- Proof of consultation with other agencies, …

RENEWABLE ENERGY ZONING ACTIVITY

This is a *solar* hypothetical, but the thinking will be useful for any technology.

Workable Zoning Activity

- Sound
- Setbacks
- Screening
- Ground Cover
- Height
- Decommissioning
- Location Control
- Timeline
- Approval Process
- Additional Financial Benefits



Activity instructions

We'll hand out activity cards and instruction sheets.

- **Meet your client**:
  The fictional Great Lakes Township.
- **Play through the scenario – Follow the prompts:**
  Craft a dream ordinance and exercise the balancing act of workability by following prompts on the screen.

After the activity: Group report-out and closing remarks.

Scenario: Great Lakes Township

- Great Lakes Township is a rural community that prides itself for their contribution to agricultural production and the peaceful rural landscapes the area has to offer.
- The people of Great Lakes Township hope to preserve the community's character and landscape as much as possible, but they also recognize that the current siting landscape prevents restricting the land use.
- Great Lakes Township believe a workable ordinance drafted prior to a project proposal aligns most with their community goals.
- They've hired **you** to help them draft a solar ordinance that reflects their community priorities while also establishing a starting point for workability should a developer come to the planning commission with a proposal.

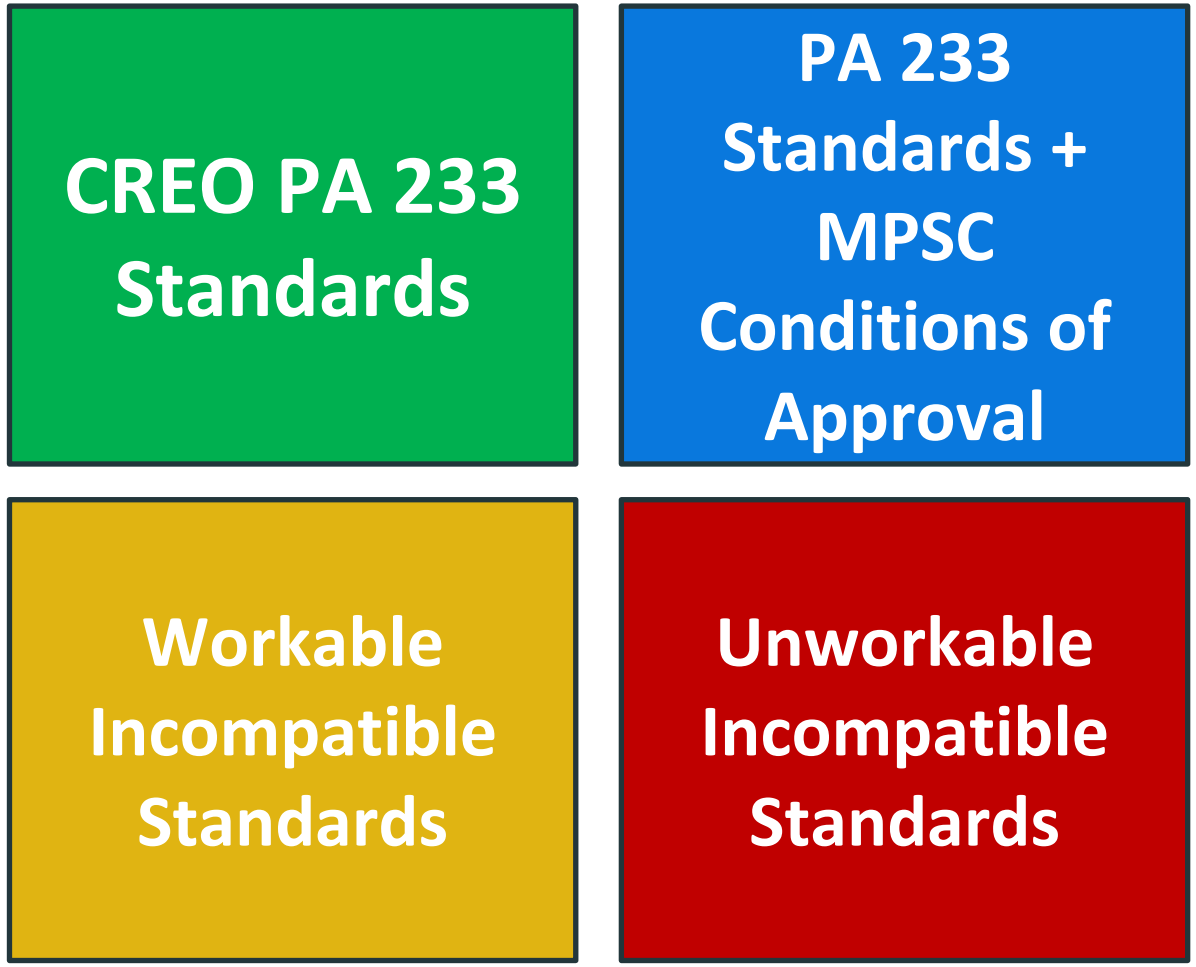
Great Lakes Township Priorities Summary:

- Preserving the rural, agricultural character of the township.
- Preserving the serene, peaceful nature of the environment in the township.

Zoning Activity Step 1

Step 1: Craft Great Lakes Twp's "Dream Ordinance"

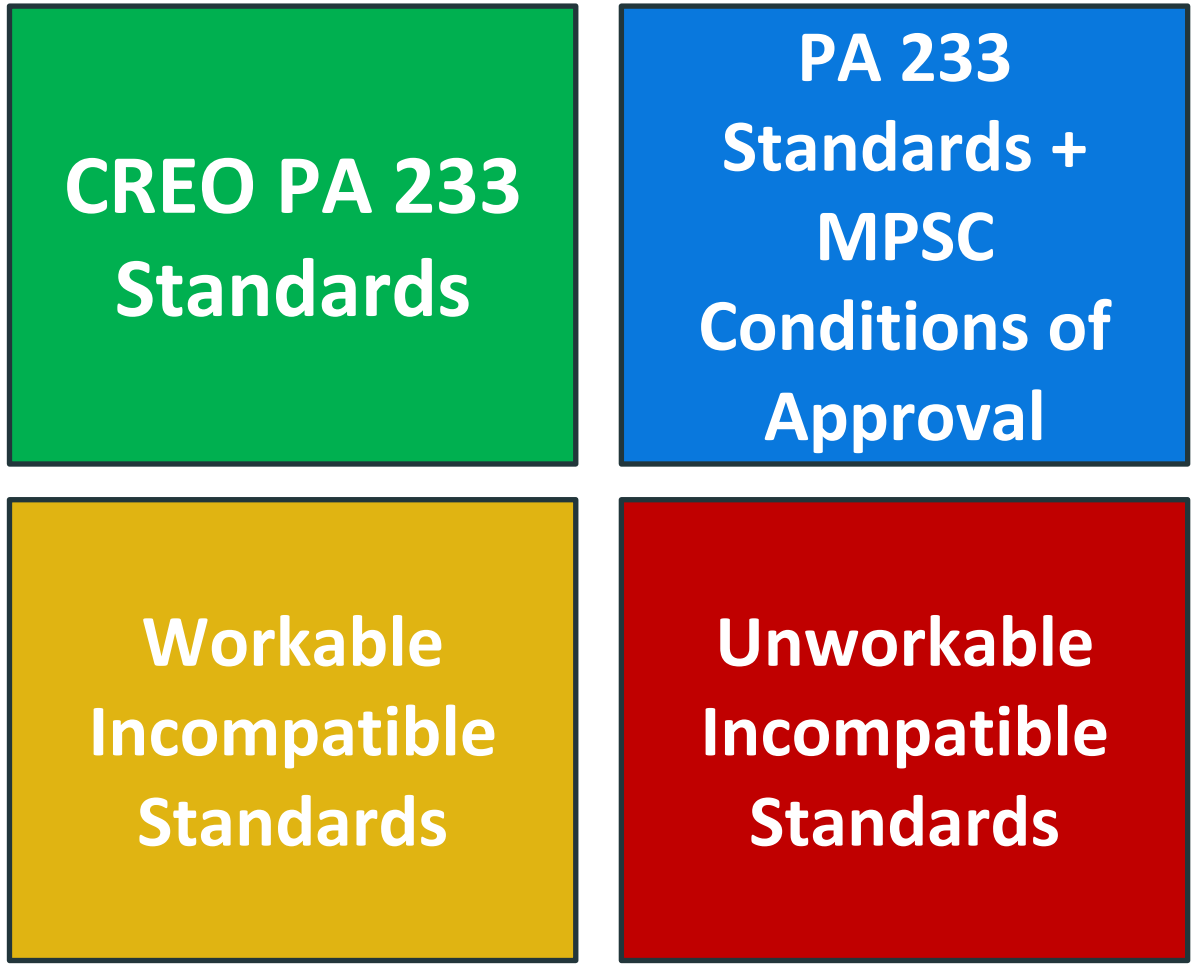
- Don't worry about workability yet.
- One by one, flip through each card set and choose the preferred option that aligns with your community's priorities.



Zoning Activity Step 2

Step 2: Balance your ordinance priorities

- Now let's start thinking about workability.
- Following the prompts on the next slides, we'll exercise this balancing act.



Step 2: Balance your ordinance priorities

- Rank your **three highest priority** zoning items in the Dream Ordinance you just crafted.

Setbacks	Sound	Ground Cover	Height	Screening
Decommission-ing	Location Control	Timeline	Approval Process	Financial Benefits

Step 2: Balance your ordinance priorities

- If you had to **remove two** zoning items below from consideration, which two would it be?

Setbacks	Sound	Ground Cover	Height	Screening
Decommission-ing	Location Control	Timeline	Approval Process	Financial Benefits

Step 2: Balance your zoning priorities

- Change **one red** or **yellow** card to **green** or **blue.**
  - In exchange, you are allowed *one total* **red** card. What item would it apply to?

This reflects the process of *reducing a low-priority item* with the expectation of *maintaining a high-priority item.*

Zoning Activity Step 3

Step 3: Reactive scenario

After you have passed your proactive ordinance, SunEnergy Inc. approaches Great Lakes Township with a solar energy project proposal. They already have signed leases with a few landowners in the community, and their parcels do not land in districts in which the existing ordinance allows for renewable energy.

How do you respond?

If you can ask the developer for a more protective item to make up for the location accommodations, what would you choose?
You can also include items not currently in your card deck.

Activity report out

What was one thing you learned through the activity? Did something surprise you?

Which challenges do you anticipate planners face in helping communities decide for a pathway and balancing priorities? What's needed to support them?

Which questions do you still have? Which questions do you anticipate communities and planners have?

Where does planning fit in all of this?

- The role of planning in PA 233
  - Not in the law, but MPSC instructions require it
  - MPSC to consider impacts on local land use

- Identify top community concerns and priorities to inform a workable ordinance
  - Tools: Mapping local suitability for solar/wind (EGLE); community engagement

- Consider energy facilities in the context of existing goals
  - Early conversations about tensions between goals/zoning items helpful either way

- "Rezoning justification memo"/findings
  - For the ordinance decisions you take, link intentions to master plan goals
  - If MPSC route, paper trail for contested case

Fit with common planning goals

Typical Principles and/or Goals	Wind	Solar	Energy Storage
Mixed-Use (density, walkability); Enhance Existing Neighborhoods	No	No	No
Tourism Development (viewsheds, outdoor recreation)	No	Yes/No	Yes
Natural Resource (Open Space) Protection (community-wide)	No	No	Yes
Natural Feature Protection (onsite)	No	No	No
Historic Preservation	No	No	No
Sustainability; Resiliency; Energy Waste Reduction; Green Buildings	Yes	Yes	Yes
Economic Diversification (job creation)	Yes	Yes	Yes/No
Farmland Preservation (conventional definition)	Yes	No	Yes
Farm Viability	Yes	Yes	Yes
Rural character	Yes/No	No	Yes/No

Example goals & zoning levers

- Rural character
  - Sound, setbacks, screening?
- Tourism development
  - Screening, height of panels, location control?
- Preserving forested lands
  - Decommissioning, location requirements?

So, what's next?

We won't know how any of this will truly play out until there's case precedent – we need to see what projects the MPSC says yes and no to, and how developers respond to denials. Until then…

- **Start thinking as a community what your zoning priorities are for renewable energy**
  - Get your municipal planner and attorney involved
  - For multi-jurisdictional projects, less reason to adopt a CREO if your neighbors aren't
  - If you choose a path that requires amending your zoning ordinance (CREO or "Workable"), start moving quickly on those amendments
  - If you're still leaning towards an "Unworkable" ordinance, consider exploring how to harness benefits and minimize priority impacts with a workable ordinance

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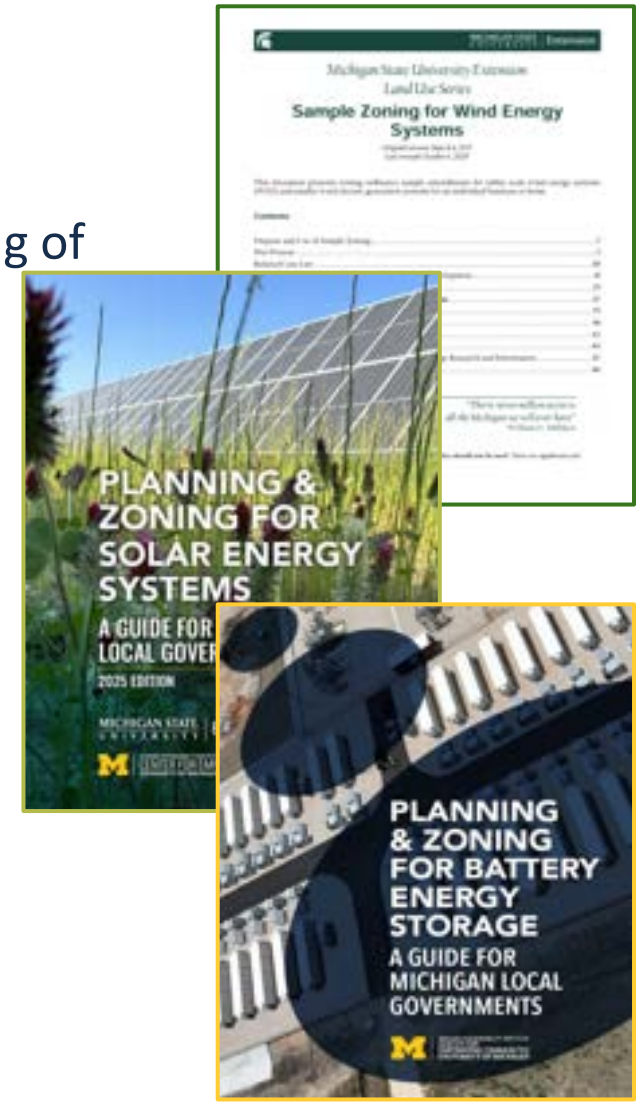
Resources

- **MPSC**: Renewable Energy and Energy Storage Facility Siting webpage
  - FAQs, MPSC's Application Filing Instructions and Procedures, Recording of stakeholder engagement workshops

- **UM Center for EmPowering Communities**: PA 233 resources
  - https://graham.umich.edu/project/MI-energy-siting
    - FAQs, guidance on "workable" ordinances (data), sample CREO
    - Solar guidebook (2025 ed.), storage guidebook, annotated wind guidebook (MSU-E)
    - Checklists for local govs. navigating MPSC, CREO processes

- **EGLE**:
  - Renewable Energy Academy webpage
  - Renewables Ready Communities Award webpage
  - Michigan Zoning Database

- **Michigan Townships Association**: PA 233 resources
  - Sample workable ordinances, sample CREO, Application Fee Escrow Documents, etc. (members only)



Resources cont.

- **Local resource potential maps:**
  - Reach out to EGLE!
- **MPSC Resource Hub:**
  - Michigan-specific maps of solar and wind projects, utility service areas, and much more
- **MISO Interconnection Queue:**
  - Interactive Queue Map showing proposed projects in Michigan
  - Interactive Queue Data (additional information on proposed projects)
- **Geospatial Energy Mapper Tool:**
  - Launch tool to view map with layer of existing transmission lines and substations, county boundaries, etc.
- **US Energy Information Administration:**
  - Existing Energy Infrastructure and Resources in the US (map)
  - Form EIA-860 data (existing and planned energy generators)
- **US Wind Turbine Database and Solar Photovoltaic Database**

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Questions?

- **Reach out to us**
  - Answer questions
  - Review draft ordinances
    - Talk through pros/cons of alternatives
  - Connect you to other communities, MSU-Extension
- **More training**
  - Renewable Energy Academy Workshops
  - Online webinars on zoning

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