



GRAHAM  
SUSTAINABILITY INSTITUTE  
UNIVERSITY OF MICHIGAN

# Siting Renewable Energy: The Ins and Outs of Options for Local Governments

**Sarah Mills, PhD**

MML CapCon

March 13, 2024

# My background, perspective

- **PhD in land use planning**
  - Mostly rural; wind as farmland preservation
  - But volunteer as City of Ann Arbor Planning Commissioner
- **Research on renewable energy policy, public opinion**
  - Zoning database
  - State-level policy, including siting
- **Funding from State Energy Office in EGLE**
  - Encourage proactive planning & zoning
  - Provide state-based data
  - Present pros and cons



# Agenda

- **PA 233 Basics**
- **What are the options?**
- **Pros / Cons and where to start**

# Part of a package

- **PA 233 (HB5120)**
  - MPSC siting authority for large projects
- **PA 234 (HB5121)**
  - MZEA
  - Nonconforming status to approved projects
- **PA 235 (SB 271)**
  - Increase rooftop solar cap to 10%
  - Renewable energy: 50% x 2030; 60% x 2035
  - Clean/carbon-free: 80% x 2035; 100% x 2040
  - 2500MW energy storage by 2029
- Other bills on energy efficiency, IRP criteria, public engagement, just transition



# Today: Focus on “What now” rather than “How we got here”

## MI HEALTHY CLIMATE PLAN

*“Assist clean energy developers and communities in adopting best practices for siting renewable energy systems.”*



Michigan's nonpartisan, nonprofit news source

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Guest Commentary

## Opinion | Michigan's system to approve green energy projects is broken

September 25, 2023 [Sarah Mills](#) [Guest Commentary](#)

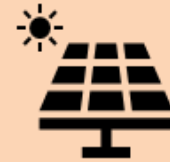
[Michigan climate change](#), [Rural Michigan](#)

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# PA 233 (Part 8 of Act 295 of 2008)

- Grants MPSC new authority to issue certificates for renewables projects at designated thresholds (MCL 460.1222 (1))
- Gives developers an option to go directly to the MPSC for certificate, rather than through local zoning
- Covers expansion and repowering of existing facilities—not just new construction MCL 460.1221 (g)
- Effective date: November 29, 2024



50 MW nameplate capacity  
solar energy facility



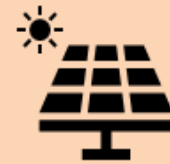
100 MW nameplate capacity  
wind energy facility



50MW nameplate capacity  
energy storage facility and  
an energy discharge capability of  
200 MW hours or more

# Is this even relevant to cities, villages? YES

- **50MW solar = 250-500 acres**
  - City of Lapeer solar
  - Portions of larger project
- **100MW wind = 38 turbines**
  - Portions of larger project
  - City of St. Louis
- **50MW storage = 5 acres**
  - Literally, **anywhere**



50 MW nameplate capacity  
solar energy facility



100 MW nameplate capacity  
wind energy facility



50MW nameplate capacity  
energy storage facility and  
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# Special city / village exception

- **Section 222 (4)**
  - Located ENTIRELY within city/village
    - AND (at least one of below)
  - City/village owns participating property (maybe not all)
  - City/village is a developer of the facility
  - City/village owns an electric utility that is the off-taker



# What's a city/village to do?

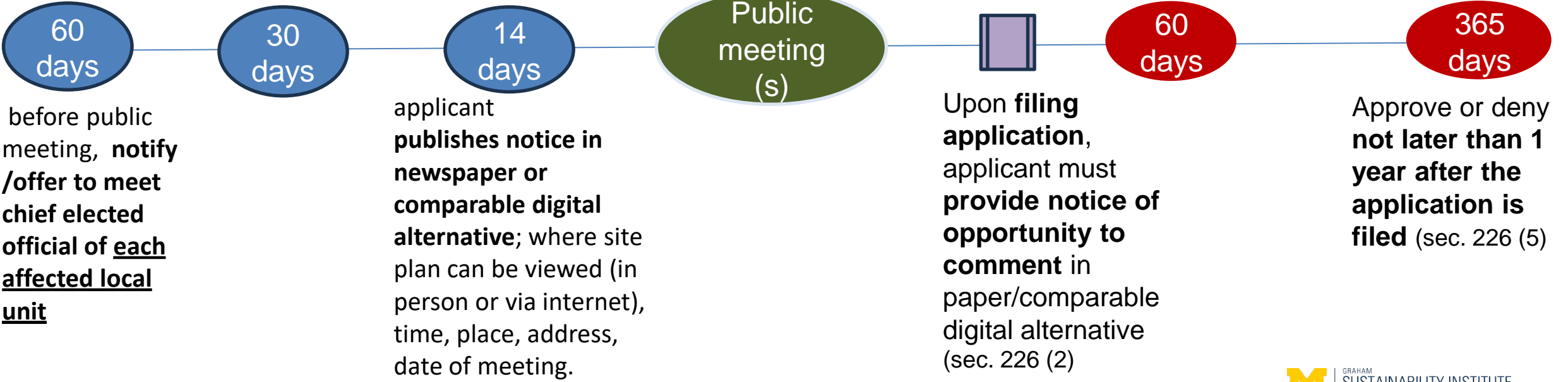
- 1 Let projects go to the MPSC
- 2 Compatible Renewable Energy Ordinance (CREO)
- 3 Workable Incompatible Ordinance (WIO)

# MPSC Process

**notify clerk** with time, date, location, of public meeting and provide copy of the site plan or internet address where it can be viewed.

An electric provider or independent power producer...**shall hold a public meeting in each affected local unit.**

**determine if application is complete** failure to timely notify = complete application (sec 225 (2))



# Components of the MPSC Process

- **Some set standards (we'll get there)**
- **Evaluation criteria with broad authority to apply conditions** (226(6))
- **\$75k/\$150k grant to local unit(s) to intervene** (226 (1))
- **\$2k/MW 1-time Host Community Agreement** (227 (1))
- **Apprenticeship, prevailing wages for construction workers**

# What's a city/village to do?

1 Let projects go to the MPSC

2 Compatible Renewable Energy Ordinance (CREO)

3 Workable Incompatible Ordinance (WIO)

# Process



no  
da  
m  
cc  
or  
w

60  
days

before public meeting, **notify /offer to meet chief elected official of each affected local unit**

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person or via internet),  
time, place, address,  
date of meeting.



Upon **filing application**, applicant must **provide notice of opportunity to comment** in paper/comparable digital alternative (sec. 226 (2))

**determine if application is complete** failure to timely notify = complete application (sec 225 (2))

60  
days

365  
days

Approve or deny **not later than 1 year after the application is filed** (sec. 226 (5))

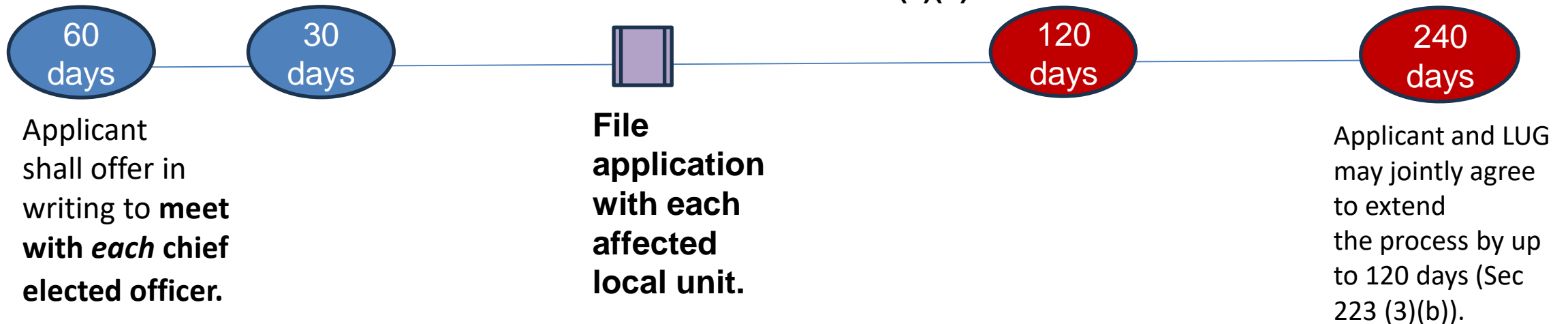
# What's special about a CREO?

- If **all** local units have adopted a CREO, the developer must **first** have the project reviewed at the local level
  - What does **all** mean?
    - Any neighbors (most relevant for wind, solar)
    - Plain reading: city + county; village + township + county
      - Can't all be zoning ordinances
    - Intent: Probably zoning authority
    - So what's that mean? Hopefully, MPSC will make it clearer
  - Why **first**?
    - If rejected, don't act in time, or make amendments, developer can go to MPSC

# What's "on time"? CREO timeline

If, within 30 days of the meeting, chief elected officer of each affected local unit, **notifies applicant that they have a CREO**, then applicant shall file with *each* affected local unit.

A local unit of government, in which the application is filed, **shall approve or deny within 120 days** after receiving the application (Sec. 223 (3)(b)).



The developer must commence construction within 5 years from the date the permit is granted and any challenges to the permit are concluded (such as an appeal) (Sec. 223 (4))

# What's a CREO?

- “an ordinance..the requirements of which are no more restrictive than the provisions in section 226 (8)”

Solar and storage:

- Setbacks: 300' from house; 50' road; 50' property line
- Noise: 55 dBA Leq(1hr) from house
- Dark-sky friendly lighting
  
- Solar: NEC fencing, 25' height
- Storage: NFPA 855



# Nothing else can be in a CREO?!

- **TBD**
  - Regulations mimicking MPSC standards / conditions?
  - Compatibility with land uses / land use plans?
  - Other things customarily in zoning (screening/landscaping)?
- **Penalty for a “false” CREO (denying project that complies with Section 226(8) standards)**
  - Loss of intervenor funds
  - May no longer be able to claim CREO status

# What's a city/village to do?

1 Let projects go to the MPSC

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# What's a workable ordinance?

- **Something the developer can live with**
- **How to tell?**
  - Talk to the developer
  - Look at what's worked before (tough for storage...)

# What's a city/village to do?

- 1 Let projects go to the MPSC
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# Primary benefits of each path

## MPSC

- Easy / cheap
- Push controversy to state

## CREO

- Attract developers
- Ensure proposals stay local

## Workable

- Not be obstructionist, eases

### NEW: Renewables Ready Communities Award

- 1-time \$5,000/MW
- Projects at PA 233 threshold
- Only for projects that go through the local process

# Primary drawbacks of each path

## MPSC

- Less opportunity to influence outcome

## CREO

- Less opportunity to establish local requirements

## Workable

- No guarantee developer won't go to state

# What to do next?

- **Talk to your neighbors**
  - No point in CREO (for wind, solar) if neighbors aren't CREO-ing
  - May depend on what your county does, too ...
- **Back-cast when you must start ordinance amendments**
  - Waiting = more answers from MPSC / info about ballot initiative
  - BUT get planner/lawyer scheduled

# What resources are available?

- FAQs
- CREO guidance from state (EGLE or MPSC)
- Storage guidebook on the way
- Eventual update of wind, solar guidebooks



## What Local Governments Should know about Michigan's New Renewable Energy Siting Policies

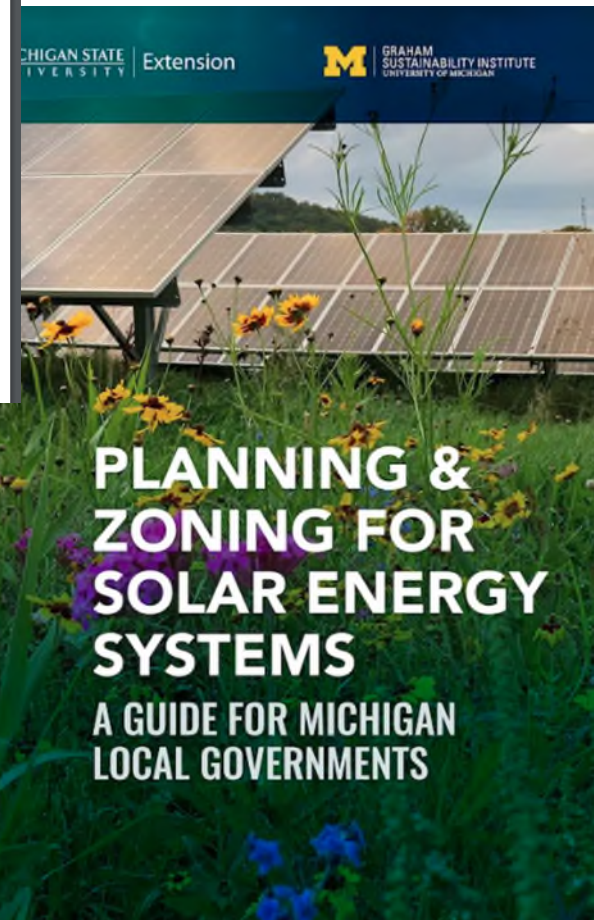
Sarah Mills and Madeleine Krol  
Center for Empowering Communities, Graham Sustainability Institute, University of Michigan  
(Last revision: 1/12/2024)

This document includes our best current understanding of Michigan's new renewable energy siting policies—HB5120/HB5121, now Public Acts 233 and 234 of 2023. 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.

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 questions and content. We will continuously update these FAQs as we learn more, and will endeavor to find answers to additional questions that arise from communities. 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 [sbmills@umich.edu](mailto:sbmills@umich.edu).

### 1) What is Public Act 233 of 2023 about?

- 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 battery 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





# Questions?

- **Reach out to us**

- Answer questions
- Review draft zoning ordinances
  - Talk through pros/cons of alternatives
- Connect you to MSU-Extension, other communities

- **More training**

- Legal training, bus tours through MAP
- Online webinars on zoning

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