Developing "Workable" Renewable Energy Ordinances

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To help communities seeking to develop a "workable" zoning ordinance, we have compiled the ordinances that were in place during the permitting of large renewable energy projects (of 20 MW and above) in Michigan that were built from 2018 through 2023. [**Click here** to access the "google sheets" file]

In using this data, it is important to keep in mind that what was workable in one community for one project may not necessarily be workable in another community or 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.

We also strongly caution against adopting the strictest standard in each of the categories and assuming that a developer will find the ordinance "workable". The zoning ordinance for each of the projects in the dataset was more restrictive than PA 233 in some way. Many ordinances, for example, included additional standards that are not listed in PA 233. Further, each of these zoning ordinances had at least one standard that was more restrictive than at least one of the standards listed in PA 233 Section 226(8); in effect, it could not be considered a Compatible Renewable Energy Ordinance (CREO), even by the most expansive definition of CREO. However, none of these ordinances were more restrictive on all measures listed in Section 226(8).

Therefore, we suggest that communities interested in developing a "workable" ordinance think about workability as a budget: your community only has so many "workability credits" to spend before a developer determines that your ordinance is unworkable and decides to take the project to the MPSC. Starting from the CREO standards (in column B in the spreadsheet), consider what standards are **most** important to your community and spend your "workability credits" on them. This may mean deviating from one of the standards in 226(8), including standards not included in PA 233 at all, or a combination of both. Having conversations that rank-order your community's priorities with respect to these zoning standards may help.

Of course, there's no real "workability credits", so it is challenging to determine how many priorities you will be able to include in your zoning ordinance before spending your budget. Some items have a higher cost than others, and how big the overall workability budget is depends on the developer that approaches your community. If a developer is present in your community, they may be able to tell you at what point you've spent all of your "workability credits". If there's no developer—or even if there is a developer, and you disagree about the budget they've allocated you (i.e. the developer determines the ordinance is not workable)—we encourage you to consider at what point an identified priority remains so important to your community that you are willing to risk the developer seeking MPSC approval rather than working through local zoning.

For more information on the pros and cons of developing a workable ordinance versus other options, check out resources available on our website or through EGLE's Renewable Energy Academy.