

APPENDIX C

Ongoing Performance Expectations

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As detailed in the “Ongoing Zoning Compliance” chapter of *Balancing the Books*, local governments have an ongoing role in overseeing renewable energy projects throughout their operational lifetime. Long-term compliance relies on attention to items commonly conditioned to a special land use permit—which may include establishing and maintaining groundcover and vegetative screening or conducting annual safety training. Embedding these long-term performance expectations into conditions of approval is essential for ensuring enforceability.

Municipal attorneys can help identify appropriate enforcement mechanisms. Key tools include the complaint resolution process, detailed in the complaint resolution plan approved during project permitting. This process can commonly address potential noise complaints (ensuring sound levels do not exceed ordinance standards) and any potential glare (solar) or flicker (wind) complaints. Additionally, the Michigan Zoning Enabling Act always provides for certain violations (nuisances per se) to be enforced through civil infraction citations, as commonly provided for in many zoning ordinances for any land use ([MCL 125.3407\(b\)](#)).

Note: *Communities may include additional long-term oversight requirements in their conditions of approval that are not addressed here. Similarly, the following list of key “housekeeping” items for local governments is not comprehensive, and not all may apply to every project.*

Regular permit review meetings: A regular, recurring meeting with the project owner, planning commission, and zoning staff can help key stakeholders discuss any concerns, review compliance with conditions of approval, and anticipate future needs (see Strategy #2 in the “Ongoing Zoning Compliance” chapter).

- ❑ Establish a cadence to hold recurring meetings and discuss the schedule for reviews of documents and plans (e.g., decommissioning, emergency, and fire response). Meetings may take place more frequently at the beginning of the project (e.g., annually) but decrease in frequency over the project life cycle (e.g., every 3-5 years).

Post-construction studies and documentation: Certain studies and reports only become available once a project is operational. Local governments should maintain a checklist of post-construction documents to expect from project owners (based on the conditions of approval), which may include:

- ❑ As-built surveys or site plans are a common component to share with the local governments after completion of construction, showing the precise locations, dimensions and characteristics of all installed structures and infrastructure as it exists on the site.
- ❑ Post-construction sound survey to ensure installed and operational equipment meets the sound standards of the zoning ordinance.

- ❑ For battery energy storage projects, any updates or amendments to pre-construction documents, especially regarding Fire and Emergency Response Plans, Hazard Mitigation Analysis, or other documentation related to fire code compliance.

Emergency and fire response: Emergency Response Plans (ERPs) and Fire Response Plans (FRPs), common components of energy project approvals, include long-term commitments:

- ❑ Conducting regular reviews and updates of ERPs and FRPs (e.g., every 3 years) with the project owner, local emergency personnel (e.g., fire department, first responders, county emergency managers), and other relevant stakeholders.
- ❑ Ensuring the project owner provides ongoing, site-specific training for local first responders as required by the ERPs and FRPs, to ensure personnel remain familiar with the project, hazards and procedures, and best practices.

Landscaping, vegetative screening, and groundcover: Local governments commonly approve energy projects with conditions of implementing and long-term maintenance of landscaping and screening plans.

- ❑ Landscaping and vegetative screening must be maintained in good condition, with dead or destroyed plants replaced promptly within specified time frames.
- ❑ Ground cover should be established, maintained, and kept free of invasive species according to the approved plan.

Major project and ownership changes: Keeping track of changes in both ownership and major changes in project infrastructure is a key housekeeping item throughout the life of the project.

- ❑ Ownership changes: Ensure that decommissioning funds and sureties are maintained, all original agreements are honored by new owners, and a new point of contact is established. Scheduling a permit review meeting can facilitate a smooth transition (see above).
- ❑ Physical changes: Consider major repairs, repowering, and augmentation (i.e., adding more equipment to maintain capacity for battery energy storage systems)—as regulated by the zoning ordinance— as these can increase the taxable value and expected tax revenue (more on revenue streams [here](#)).
- ❑ Consider other changes impacting the site plan, including the impacts of any land divisions.

Decommissioning: Essential to every energy project, an approved decommissioning plan provides that the project can be decommissioned responsibly at the end of its operational life, and the site can be restored. Housekeeping items regarding decommissioning include:

- ❑ Conduct an annual review of the decommissioning surety to confirm it remains valid (not lapsed) and that no adjustments to the amount of the decommissioning surety are necessary to account for PA 116 lands (see Strategy #3 in the “End-Of-Life” chapter).
- ❑ Ensure re-evaluation of decommissioning cost every few years (e.g., 5 years) by a third-party, as described in the decommissioning plan.
- ❑ Monitor for triggers for decommissioning, as outlined in the approved decommissioning plan or agreement (e.g., abandonment, failure to maintain financial surety, etc.).