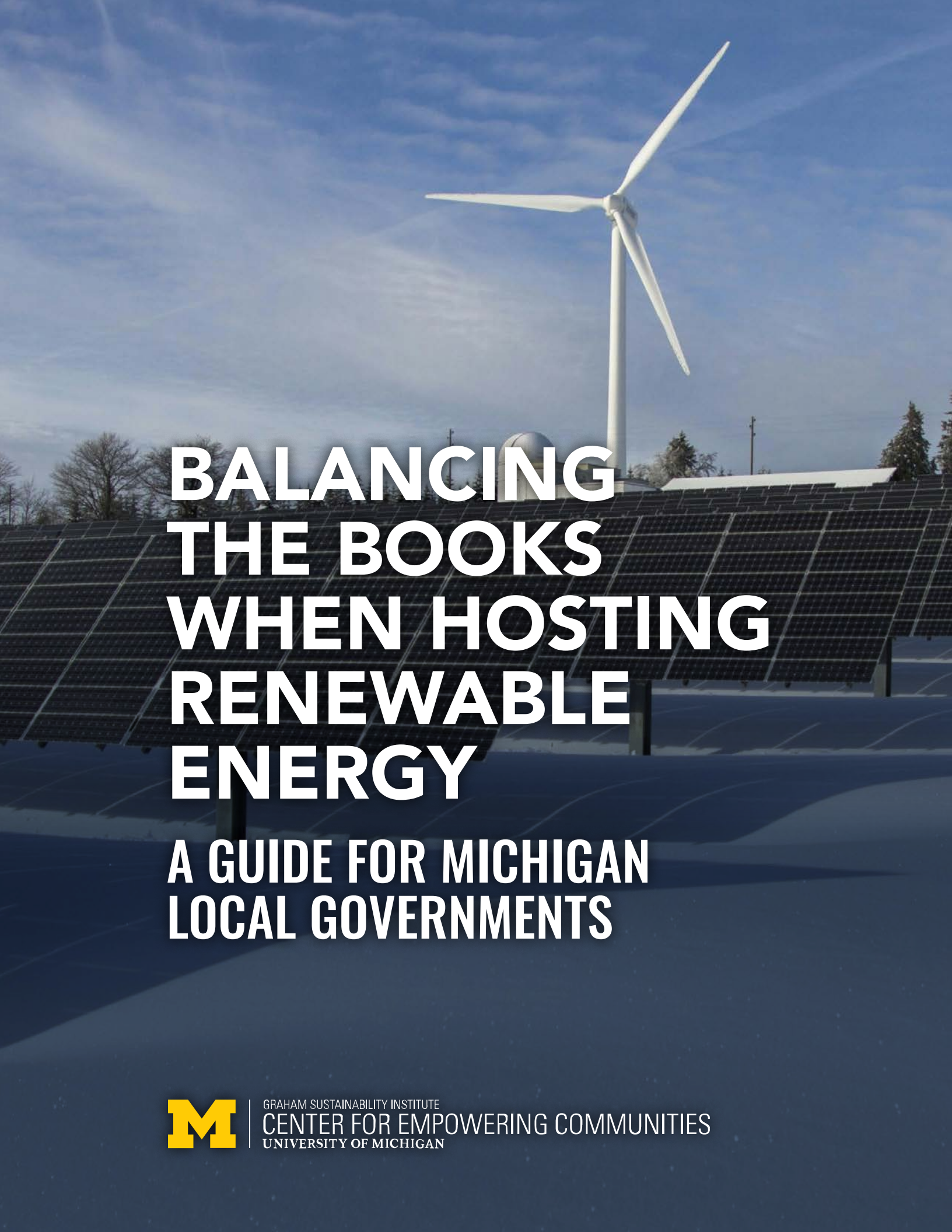

BALANCING THE BOOKS WHEN HOSTING RENEWABLE ENERGY

A GUIDE FOR MICHIGAN LOCAL GOVERNMENTS

GRAHAM SUSTAINABILITY INSTITUTE
CENTER FOR EMPOWERING COMMUNITIES
UNIVERSITY OF MICHIGAN

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Find this document and more about the project online at graham.umich.edu/project/btb.

Cover image: Solar Panels on Snow With Windmill Under Clear Day Sky. Photo by Pixabay from Pexels.

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EGLE
MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

RENEWABLE ENERGY ACADEMY

BACKGROUND & PURPOSE

Across Michigan, communities are seeing a rapid increase in large-scale renewable energy development. These projects can deliver real local benefits, from new tax revenue and employment opportunities to broader economic investment. But alongside these gains come new responsibilities for local governments, including permitting, compliance monitoring, and long-term administrative oversight. For rural jurisdictions in particular—often staffed by part-time officials or very small teams—these obligations can stretch already limited capacity.

Renewable energy projects are not short-term undertakings. From early planning and construction through decades of operation and eventual decommissioning, a single project can shape local government workloads and budgets for a generation. Over that full life cycle, local governments may need to commit significant staff time and financial resources to ensure that projects remain in compliance with local ordinances and agreements. Careful planning helps local governments manage these ongoing demands and sustain the fiscal benefits that make renewable energy projects attractive.

Balancing the Books When Hosting Renewable Energy is intended to help local governments navigate that tension. The guide lays out the major phases of a project's life cycle, identifies where local costs are likely to arise, and describes practical strategies for managing and offsetting those costs. These include mechanisms for shifting certain expenses to developers, as well as alternative funding approaches that can help communities recover or stabilize public expenditures. Not every strategy will fit every community or project, but together they offer a flexible toolkit for local decision-makers.

This guide primarily addresses large-scale renewable energy projects, including:

- solar energy systems 50 megawatts (MW) or larger
- wind energy systems 100 MW or larger
- battery energy storage systems (BESS) 50 MW or more with a discharge capacity of 200 megawatt-hours (MWh) or more

While elements of the guide may apply to smaller projects or other technologies, key funding streams and regulatory frameworks are specific to these large-scale thresholds defined in Public Act 233 of 2023 (PA 233).[1] This guide is relevant both for projects approved by the Michigan Public Service Commission (MPSC) and for projects sited locally through a compatible renewable energy ordinance (CREO) or a workable incompatible ordinance.[2]

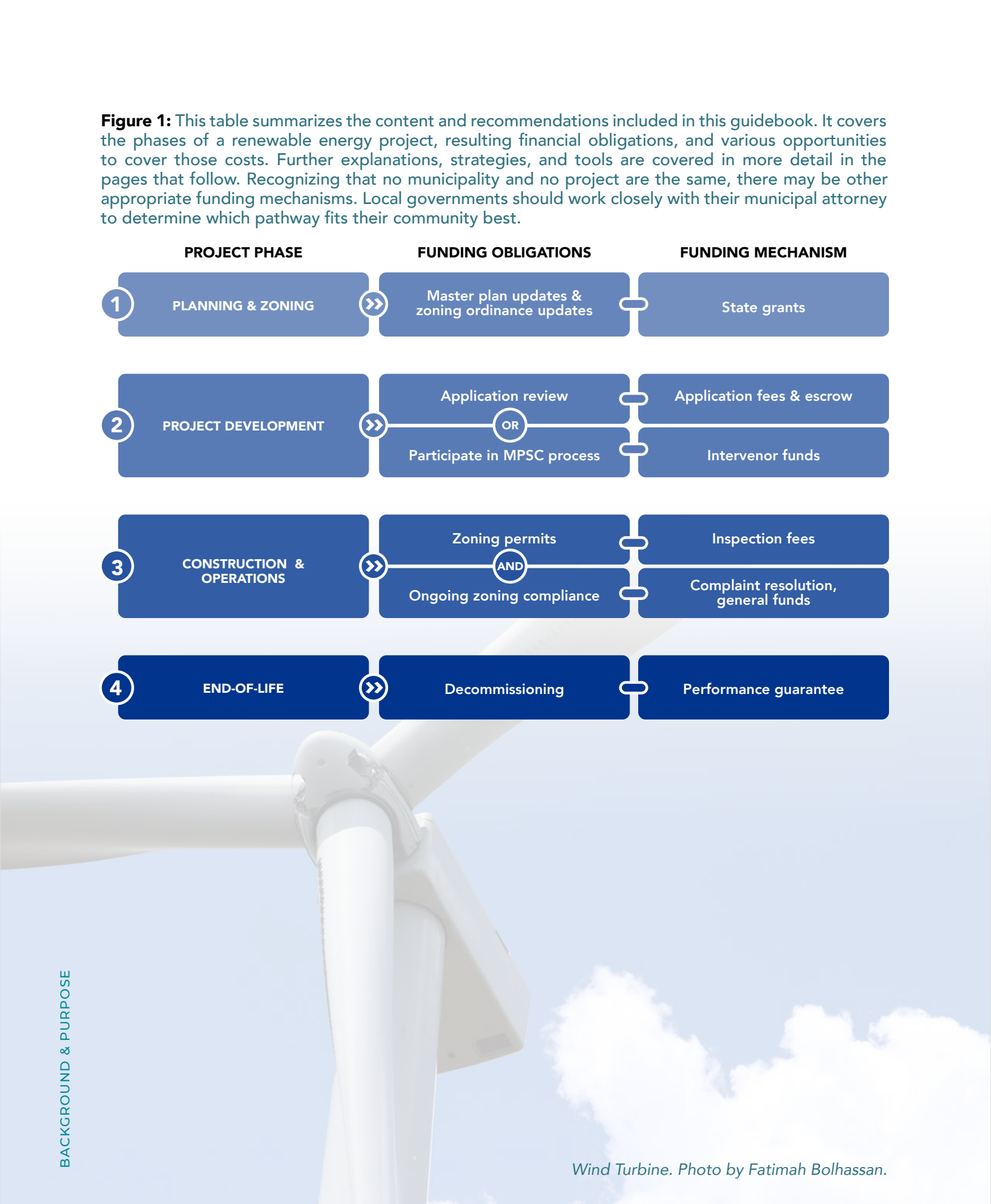
Balancing the Books When Hosting Renewable Energy was developed by the Center for EmPowering Communities at the University of Michigan's Graham Sustainability Institute. The guide was further reviewed by experts from local government, energy-related non-profits, the renewable energy and energy storage industry, utilities, legal experts, and academia.

1 Public Act 233 of 2023 is Michigan's new renewable energy siting law, which provides developers the opportunity to bypass local zoning and obtain land use approval from the Michigan Public Service Commission for large-scale projects. Access the act at https://www.legislature.mi.gov/documents/2023-2024/publicact/htm/2023 -PA-0233.htm.

2 Learn more about permitting pathways under PA 233 at https://graham.umich.edu/project/MI-energy-siting.

Figure 1: This table summarizes the content and recommendations included in this guidebook. It covers the phases of a renewable energy project, resulting financial obligations, and various opportunities to cover those costs. Further explanations, strategies, and tools are covered in more detail in the pages that follow. Recognizing that no municipality and no project are the same, there may be other appropriate funding mechanisms. Local governments should work closely with their municipal attorney to determine which pathway fits their community best.

PROJECT PHASE	FUNDING OBLIGATIONS	FUNDING MECHANISM
1 PLANNING & ZONING	Master plan updates & zoning ordinance updates	State grants
2 PROJECT DEVELOPMENT	Application review OR Participate in MPSC process	Application fees & escrow Intervenor funds
3 CONSTRUCTION & OPERATIONS	Zoning permits AND Ongoing zoning compliance	Inspection fees Complaint resolution, general funds
4 END-OF-LIFE	Decommissioning	Performance guarantee



Wind Turbine. Photo by Fatimah Bolhassan.

PLANNING & ZONING

The Michigan Zoning Enabling Act (MZEA) requires all zoning to be based on a plan, making a master plan a critical prerequisite for zoning decisions.[3] Research shows that the most effective master planning is rooted in inclusive community engagement, often involving ongoing outreach, surveys to assess priorities, and multiple opportunities for community input. These efforts require adequate financial and staff resources, which can be a challenge for local governments with limited budgets and part-time or consultant planning staff. External grants and regional collaboration can help fill these gaps.

At Renewable Energy Academy workshops, participants engage in a game to understand the different permitting pathways under PA 233. Photo by EGLE.

While PA 233 provides an option for developers to seek land use approval from the MPSC, any local permitting of renewable energy projects must occur through zoning.[4] Though some communities may adopt zoning ordinance amendments before updating their plan, working closely with a qualified planner or municipal attorney to conduct a master plan review is essential when immediate amendments are necessary. This ensures that zoning changes align with, or at least do not contradict, broader community goals, including those related to renewable energy or energy storage.

Every zoning amendment should include a written justification, either as a rezoning memo from planning staff or within the "whereas" clauses of the motion to rezone. A clear rationale demonstrates how the change advances community goals and provides valuable documentation, especially if a developer were to later pursue state-level permitting through the MPSC.

3 Michigan Legislature. (2006). Michigan Zoning Enabling Act. https://www.legislature.mi.gov/(S(45jjsa453w5kfzbjw0yx3e45))/documents/mcl/pdf/mcl-act-110-of-2006.pdf

4 Find more information on PA 233 and permitting pathways at https://graham.umich.edu/project/MI-energy-siting.

Strategy: Use state grants to add renewable energy to your master plan and zoning ordinance

It is best to prepare changes to a master plan or zoning ordinance before a renewable energy project is proposed, which is why communities should aim to consider these new land uses the next time they review their plan. Several state grants are available to help fund the process, including the cost of robust community engagement. Some grants focus specifically on energy planning, while others cover planning more broadly. In both cases, efficiencies can be gained by considering all technologies—wind, solar, and BESS—and by planning for their use across scales, from rooftop or backyard systems to large utility-scale projects.

Below are some grants available to update a master plan or zoning ordinance. For up-to-date information on availability, eligibility, and application, visit the respective web pages.

- EGLE Community Energy Management Grant: Supports a broad range of energy management projects, including integrating energy considerations into master plans and zoning ordinances
- ORP Rural Readiness Grant: Provides rural communities with funding to support collaborative planning and capacity-building initiatives
- MSHDA Michigan Housing Readiness Incentive Grant: Funds master plan updates with broad authority to revise the full plan, provided housing is addressed
- EGLE Michigan Coastal Management Program: Offers competitive or matching funds for coastal communities and counties to update their master plans

Tool & Resources:

- ☐ Sample ordinance language and guidebooks:
  - ☐ Planning & Zoning for Solar Energy Systems: A Guide for Michigan Local Governments
  - ☐ Planning & Zoning for Battery Energy Storage Systems: A Guide for Michigan Local Governments
  - ☐ Sample Zoning for Wind Energy Systems
- ☐ EGLE Renewable Energy Academy workshops on planning and zoning for large-scale renewable energy and energy storage projects.

PROJECT DEVELOPMENT

Large-scale renewable energy projects require intensive site plan review, specialized studies, and ongoing oversight that far exceed the scope of permit applications typically received by rural governments. Escrow accounts, clear policies, and careful bookkeeping ensure municipalities can recover these costs and manage complex reviews without straining local budgets.

APPLICATION REVIEW

Regardless of whether a zoning ordinance permits large-scale energy projects as special land uses or by right, it should require developers to submit a site plan for ordinance compliance review. Because wind and solar projects have much larger physical footprints than most other land development proposals, their site plans are typically far more extensive.

In addition, many ordinances require supplemental studies (e.g., sound or environmental impact analyses) or additional agreements (e.g., on decommissioning or road use) that may need to be evaluated by specialists. A standard application fee rarely covers the full cost of this review. As a result, it is common to require both an application fee (to cover, e.g., noticing and staffing a public hearing) and a continuing escrow deposit to fund the full application review (to cover, e.g., additional meetings, engineer consultants, and staff time). The escrow is typically held by the municipality and funded by the applicant at the time of application submission. It is replenished as needed and remains in place until the review process concludes. To help determine the expected costs of review and set developer expectations early, it can be beneficial for the municipality to obtain estimates for consulting and legal support ahead of any application submission.

Crescent Wind Park in Hillsdale County. Photo by Madeleine Krol.

Costs drawn from the escrow may include legal review of agreements, third-party evaluation of decommissioning cost estimates or sound/flicker studies, and consultation on emergency response plans. If the local government hall cannot accommodate anticipated attendance at public hearings, escrow funds may also be used to rent a larger meeting space and hire a recording secretary, as renewable energy siting decisions are often subject to heightened legal scrutiny. In communities where planning commissions and zoning boards are volunteer-led, escrow mechanisms can be especially valuable to ensure access to external expertise without straining local budgets.

When approving a project, construction inspection requirements and performance standard metrics should be included as conditions of approval. Doing so supports later enforcement, as discussed in the section on Construction & Operations.

Strategy #1: Establish an escrow resolution and enter into an escrow agreement

An escrow requirement should be authorized through a resolution of the legislative body that explicitly states that the standard application fee covers only municipal administrative expenses (see examples above). It does not cover the cost of outside expertise needed for a full review. An escrow account ensures that these additional costs can be paid without burdening the municipality.

When developing an escrow resolution, two considerations are important:

- Escrow funds may be used only for components explicitly required in your policy, such as third-party reviews or sound studies.
- Determining an appropriate escrow amount can be challenging. Some local governments set a starting amount (e.g., $10,000) and require replenishment as review costs accrue or when the escrow amount drops below a set threshold (e.g., $5,000).

In addition to the resolution, an escrow agreement between the local government and the developer can ensure clear expectations for both parties under the adopted policy. These agreements typically outline payment responsibilities, replenishment mechanisms, and potential liabilities to help ensure payments remain current.

Strategy #2: Maintain good bookkeeping practices

Accurate accounting is essential to administering an escrow. Staff typically coordinate closely with the clerk or treasurer to track review-related expenditures and provide timely documentation to the developer, especially when additional funds are needed. Detailed invoices can help minimize disputes and improve transparency.

Tools & Resources:

☐ Appendix A: Sample Escrow Fee Agreement—This sample escrow fee agreement provides an example of what a local government may use to define the terms and conditions for an escrow account.

MPSC PATHWAY

Alternative to application review by the local government, energy projects may, under certain conditions, be permitted by the Michigan Public Service Commission (MPSC). In this case, the MPSC assumes responsibility for processing, reviewing, and approving the application, and local government obligations are minimal, though a number of opportunities for engagement remain.[5] MPSC staff are available to assist with procedural questions, and communities may request a pre-application meeting through the MPSC website.[6]

Emergency and fire response planning are especially critical for battery energy storage systems. Photo by Werner Slocum / NREL 68385.

Before an application is submitted, developers may seek local government input on materials such as the required Host Community Agreement (HCA), Emergency Response Plan (ERP), Fire Response Plan (FRP), and decommissioning plan. The level of participation is at the discretion of the local government.

After an application is filed, a local government may participate in the siting process as a formal intervenor to contribute its perspective to the MPSC's review. To support this involvement, the developer must provide up to $75,000 to each local government (capped at $150,000 total) through a local intervenor compensation fund, for expenses associated with intervening in the contested-case proceedings.[7] Any unspent funds must be returned to the developer.

5 See 'Navigating the MPSC Renewable Energy Siting Process: A Checklist for Local Governments' at https://graham.umich.edu/project/MI-energy-siting.

6 MPSC Renewable Energy and Storage Facility Siting web page: https://www.michigan.gov/mpsc/regulatory/facility-siting/renewable-energy-and-storage-facility-siting

7 If a local government with a Compatible Renewable Energy Ordinance fails to approve the project within the time limits laid out in the law, denies a project that meets the standards set in section 226(8) of the PA 233 of 2023, or amends its zoning ordinance to impose additional restrictions after a project has been announced, then the developer does not provide intervenor funds to that local government. More information at https://graham.umich.edu/media/files/FAQ-How-HB5120-Works.pdf.

Strategy #1: Weigh the pros and cons of securing consulting support before application filing

Some of the documents developers may need to discuss with the local government prior to filing—such as the HCA, ERP, or other required plans—may warrant review by municipal attorneys or technical consultants. However, there is currently no clear funding source to offset these pre-application costs. Local governments may therefore need to evaluate whether early participation provides benefits that justify the expense. Declining to enter an HCA, for example, results in a clear financial loss (waiver of a one-time payment of $2,000 per MW), which may justify early legal counsel engagement despite the lack of reimbursement. For other documents, it may be more cost-effective to defer review until after the application is filed, when intervenor funds become available.

Strategy #2: Maximize intervenor funds through coordinated legal participation

A local government may receive no more than $75,000 from the developer to support participation in the MPSC contested-case proceedings, regardless of actual legal costs. When multiple jurisdictions are involved, intervenor funds can be used more efficiently through coordinated legal strategies, ensuring that shared priorities are clearly represented in the record. The MPSC's Application Filing Instructions and Procedures (AFIP) explicitly allows jurisdictions to pool one-time intervenor funds and coordinate their intervention and participation in the contested case.

Tools & Resources:

- ☐ MPSC Renewable Energy and Storage Facility Siting website
- ☐ MPSC Application Filing Instructions and Procedures (AFIP)
- ☐ Checklist for local governments navigating the MPSC process

COMMENTARY: For battery energy storage projects permitted locally, and for all renewable energy projects permitted through the MPSC, developers must prepare ERPs and FRPs. These plans identify any gaps in training or equipment that could limit a local government's ability to respond to emergencies. Fire departments and other first responders are commonly involved in both working with developers to inform these plans and collaborating with local governments to review and assess their adequacy. This evaluation helps determine whether additional preparation —by the developer or through public investment—is necessary to ensure effective emergency and fire response.

CONSTRUCTION & OPERATIONS

Once a project is permitted, local government oversight continues throughout construction and operation. Resources during these phases may include conducting zoning permits and inspections, monitoring adherence to conditions of approval, and engaging with the project owner and other key stakeholders to address concerns, anticipate future needs, and regularly evaluate the decommissioning bond.

ZONING COMPLIANCE INSPECTIONS

For most construction projects, local building inspectors conduct periodic inspections during construction to ensure compliance with building and electrical codes. Renewable energy projects, however, fall under exemptions in the Stille-DeRossett-Hale Single State Construction Code Act[8] for "certain types of heavy civil construction, including . . . electricity generation." As a result, though some local governments do inspect elements of these projects, legal disputes have arisen over whether local governments may require building or electrical permits for renewable energy facilities. Legal counsel is often necessary to determine an appropriate approach.[9]

In addition, many elements of interest to local governments—such as the placement of sound-emitting equipment, soil management practices during construction, and the location of infrastructure relative to property lines—fall outside the scope of building codes and may shift during construction as unforeseen conditions arise. Ideally, the need for minor changes necessitated by unforeseen on-site conditions, and how to accommodate such changes, should be discussed and agreed upon with the developer prior to start of construction. To account for adjustments made during construction, local governments commonly require as-built site plans to document final infrastructure locations and assess zoning compliance once construction is complete. However, if an as-built survey reveals shifts in infrastructure that alter zoning compliance—such as changing fencing or inverter placements affecting setbacks or sound modeling—remedies may be costly after construction concludes. In addition, some conditions of approval relate to construction-phase activities (e.g., on-site soil retention, minimizing soil compaction, or road use) and cannot be effectively addressed retroactively.

Zoning compliance inspection and continued communication during construction can help identify issues early. These inspections are typically scheduled with the contractor and focus on site-plan elements or conditions of approval essential to zoning compliance—such as the staked location of perimeter fencing, turbine or inverter locations, or other components that affect sound or visual impacts considered during project approval. Inspections generally do not require verification of the location of every solar array but may include arrays closest to property boundaries.

8 Michigan Legislature. (1972). Stille-DeRossett-Hale Single State Construction Code Act, Section 125.1502a(bb). https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-ACT-230-OF-1972

9 Mustang Mile Solar Energy LLC v. Township of Macon, Michigan Court of Appeals, Docket No. 368604. https://www.courts.michigan.gov/c/courts/coa/case/368604

The guide offers two strategies assuming that a community will forgo the legal ambiguity of requiring building permits for large renewable energy projects and instead issue zoning permits, which may be better suited to addressing concerns. However, these strategies may be adapted to building permits if recommended by a jurisdiction's legal counsel.

Strategy #1: Hold a pre-construction meeting with the developer

Once all conditions of approval are met, it can be valuable for the local government to hold a pre-construction meeting with the developer.[10] This meeting helps establish effective lines of communication with the developer and any subcontractors, introduces inspectors, and establishes a cadence for additional meetings in the future. It also provides an opportunity to review final project plans and permits and to address any lingering questions or concerns before construction begins.

Strategy #2: Issue zoning permits and conduct inspections

If zoning compliance inspections are not already part of existing procedures, the zoning ordinance must include language requiring such inspections for this land use. When approving the project site plan, the conditions of approval should specify which site plan elements require inspection and when. Certain components, such as foundations, may require verification of staked locations before concrete is poured. Other elements—such as soil retention measures or underground cable depth, if referenced in the zoning ordinance—may necessitate visual inspection during construction (See Appendix B for an overview of inspection elements). These inspections can occur in two ways:

1. **On-site inspection:** An inspector conducts visual monitoring. This makes the most sense for elements that are not locational in nature (e.g., soil compaction).
2. **Developer-provided documentation:** The developer provides GPS location points or photographs of key infrastructure that can be cross-referenced with the approved site plan to verify placement. Even for elements that are not locational in nature, the developer may provide photographs in lieu of a visit from the inspector.

Noise sources like inverters may be staked before concrete is poured. Photo by Mary Reilly.

10 This meeting mirrors the pre-construction meeting proposed in the MPSC's minimum conditions for the State permitting pathway. MPSC Application Filing Instructions and Procedures, Attachment F, Exhibit A-14, Condition 2. https://www.michigan.gov/mpsc/regulatory/facility-siting/renewable-energy-and-storage-facility-siting

Whether inspections occur in person or via documentation review, associated costs will arise. These costs can be covered through a fee or, more appropriately, an escrow account designated for inspection-related expenses. Accurate recordkeeping is essential to minimize disputes regarding inspection activities.

COMMENTARY: An alternative approach to zoning compliance inspections mirrors the MPSC's Application Filing Instructions and Procedures (AFIP).[11] Condition #1 in Exhibit A-14 allows for a third-party independent monitor, funded by the developer. The monitor, selected in consultation with the local government, conducts weekly on-site oversight of construction activities; resolves complaints; and can halt construction if any plan, permit, or agreement is breached. The monitor provides reports to both the local government and the developer from the start of construction through the first three months of operation.

Tool & Resources:

☐ Appendix B: Zoning Permit Inspections—This overview highlights key zoning permit considerations and inspection points for renewable energy projects.

ONGOING ZONING COMPLIANCE

Maintaining compliance during construction and throughout a project's operational life is a long-term responsibility for the project owner. Compliance may include establishing groundcover, planting and maintaining vegetative screening, and ensuring annual safety training when required. Local governments monitor and enforce this compliance and, over time, may also need to respond to compliance concerns from nearby residents, generally related to sound, glare, shadows, mitigation measures, or other impacts.

Strategy #1: Embed ongoing performance expectations in conditions of approval

Most jurisdictions already have procedures for zoning and standards enforcement, but the scale of renewable energy projects often warrants greater specificity of expectations. During site plan review, expectations related to groundcover, vegetative screening, safety training, and other long-term obligations should be clearly articulated. These conditions are limited to requirements directly tied to the zoning ordinance, rather than imposing new or unrelated obligations. Municipal attorneys can help set conditions and identify appropriate enforcement mechanisms, which commonly include the complaint resolution process as detailed in the approved plan, or civil infraction citations through the MZEA.[12]

11 Michigan Public Service Commission (MPSC). (2024). Application Filing Instructions and Procedures, Exhibit A-14. https://www.michigan.gov/mpsc/regulatory/facility-siting/renewable-energy-and-storage-facility-siting

12 Michigan Zoning Enabling Act, MCL 125.3407(b) (2006). https://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-110-of-2006.pdf

Established groundcover below solar panels at Calhoun Solar in Calhoun County. Photo by Invenergy.

Strategy #2: Conduct a regular permit review with the developer, planning commission, and zoning staff

A regular, recurring meeting can help key stakeholders discuss ongoing concerns, review compliance with conditions of approval, address community complaints, and anticipate future needs. (see Appendix C). This review may also include evaluation of the decommissioning bond (see End-of-Life section). These 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).

Strategy #3: Require a Complaint Resolution Plan as part of site plan review and regular reporting upon operations

A Complaint Resolution Plan should be submitted to the planning commission before approval of a special land use permit. The plan should outline how the operator will receive, investigate, and resolve complaints during project operations, including responsibility for follow-up, timelines for response, and resolution procedures. Expectations regarding communications, such as the frequency and content of reporting on complaints and their resolution, should also be specified. The MPSC requires applicants for PA 233 siting certificates to create a Complaint Resolution Process; details are provided in MPSC AFIP Section 7.16.[13]

Tool & Resources:

- ☐ Appendix C: Ongoing Performance Expectations—This overview highlights common long-term performance expectations and "housekeeping" items.
- ☐ Sample ordinance language and guidebooks:
  - ☐ Planning & Zoning for Solar Energy Systems: A Guide for Michigan Local Governments
  - ☐ Planning & Zoning for Battery Energy Storage Systems: A Guide for Michigan Local Governments
  - ☐ Sample Zoning for Wind Energy Systems
- ☐ MPSC Complaint Resolution Process requirements: As an example, review MPSC's language in section 7.16 of the Application Filing Instructions and Procedures.

13 See Section Section 7.16 of the MPSC Application Filing Instructions and Procedures at https://www.michigan.gov/mpsc/regulatory/facility-siting/renewable-energy-and-storage-facility-siting

END-OF-LIFE

Historically, decommissioning has not been required for land uses. For that reason, Michigan has thousands of vacant structures and brownfields across the state, posing significant challenges to redevelopment.[14] In contrast, decommissioning planning is a standard practice in the renewable energy sector.

Developers typically submit a decommissioning plan as a part of the site plan and provide a form of financial assurance that enables the local government to execute the plan if the developer fails to do so. For projects permitted through the MPSC, both the decommissioning agreement and financial assurance are held and managed by the MPSC, removing the oversight and enforcement burden from local governments.

Strategy #1: Determine an appropriate decommissioning cost

When estimating the cost of decommissioning a project at the end of its life if it is abandoned, a frequent point of debate is whether to include salvage value. Salvage value represents the estimated worth of project materials and components at the end of its useful life—such as scrap metals, precious metals, or the resale of functioning equipment like solar panels.

Projects approved by the MPSC under PA 233 allow salvage value to be included when calculating decommissioning cost.[15] Including salvage value assumes that some of the costs of deconstruction (e.g., labor, site restoration) can be offset by selling recoverable materials for reuse or recycling. This not only reflects likely real-world outcomes but also reduces the size of the financial assurance needed to be set aside. However, in the event that the developer abandons the project before it is decommissioned, a decommissioning cost that includes salvage value would require the local government to handle the sale of these materials to generate the funds needed for decommissioning.

Regardless of whether salvage value is included or not, periodic reassessment of decommissioning costs is essential due to changing costs over time, such as inflation or recycling costs. Although initial decommissioning costs are established during site plan approval, mechanisms for reassessment should be clearly defined. Reassessments are typically conducted every few years or when project ownership changes. A common approach is to use a mutually agreed-upon third party hired by the project owner to update decommissioning costs. Alternatively, the developer's engineering consultant may prepare an updated estimate that is then reviewed by an engineer retained by the local government.

Strategy #2: Secure appropriate financial assurance

Although developers are responsible for decommissioning, local governments often request financial assurance to ensure funds are available for the projected cost of decommissioning, stabilization, and site restoration. A cash escrow—where the full decommissioning cost is deposited with the

14 Michigan Department of Environment, Great Lakes, and Energy (EGLE) Maps and Data. (2025). Brownfields. https://gis-egle.hub.arcgis.com/datasets/egle::brownfields/explore

15 Michigan Legislature. (2023). Public Act 233 of 2023, Section 225(1)(2)(i-iii). https://www.legislature.mi.gov/documents/2023-2024/publicact/htm/2023-PA-0233.htm

local government—is generally considered unreasonable. More commonly, developers obtain a surety bond, which functions as an insurance policy guaranteeing that the bond company will cover decommissioning costs if the developer does not. The timing for posting financial assurance is often discussed during project permitting. Local governments should consider that PA 233 allows for decommissioning financial assurance to be posted incrementally over time,[16] rather than being posted in full at the beginning of construction.

Strategy #3: Conduct an annual review of the decommissioning bond

Most surety bonds are one-year policies that renew annually, even when required for the life of a project. An annual review ("annual show") ensures the bond remains active, documents any ownership changes, and confirms that the bond amount has been updated if needed. The decommissioning agreement or zoning ordinance should specify responsibility, timing, and review procedures.

The annual show is especially important when portions of a solar project are enrolled in the state's Farmland and Open Space Preservation Program (PA 116).[17] In those cases, the Michigan Department of Agriculture and Rural Development (MDARD) holds the bond for the PA 116-enrolled land.[18] Because MDARD may relinquish PA 116 amendments under certain circumstances, the annual show should verify that any MDARD-held bond remains active. If a bond has been released, the locally held bond should be increased to cover the land previously bonded by MDARD.

The annual show can be coordinated with the broader annual meeting described earlier in this guide (see page 12, Ongoing Zoning Compliance Strategy #2), where stakeholders convene to discuss compliance, community concerns, and overall project status, including the decommissioning bond.

Tool & Resources:

- ☐ Sample ordinance language and guidebooks:
  - ☐ Planning & Zoning for Solar Energy Systems: A Guide for Michigan Local Governments
  - ☐ Planning & Zoning for Battery Energy Storage Systems: A Guide for Michigan Local Governments
- ☐ Appendix D: Sample Decommissioning Agreement—This sample agreement defines how and when a project will be decommissioned, as well as the form of financial assurance.

16 See Section 225(1)(r) of PA 233 of 2023 at https://www.legislature.mi.gov/documents/2023-2024/publicact/htm/2023-PA-0233.htm; and the MPSC Application Filing Instructions and Procedures, Section 6.3.13 on Decommissioning, including a Sample Decommissioning Agreement, at https://www.michigan.gov/mpsc/regulatory/facility-siting/renewable-energy-and-storage-facility-siting.

17 Michigan Department of Agriculture & Rural Development. Farmland and Open Space Preservation Program. https://www.michigan.gov/mdard/environment/farmland

18 Michigan Legislature. Natural Resources and Environmental Protection Act (excerpt), MCL324.36104e. https://legislature.mi.gov/Laws/MCL?objectName=mcl-324-36104e

APPENDICES

The strategies proposed in this guide may require new practices and additional documentation to be implemented. The appendices below offer sample language that local governments may use to put these strategies into practice. These documents will continue to be updated over time. **All proposed language should be thoroughly reviewed by planning professionals and municipal attorneys to fully consider their implications and ensure consistency and integration within the overall code.**

Appendix A: Sample Escrow Fee Agreement

An escrow account is used to cover costs associated with a local government's review of a land use application beyond the application fee, which may include fees for engineers, planners, and consultants, among others. This sample escrow fee agreement provides an example of how a local government may define the terms and conditions for the escrow account.

Appendix B: Zoning Permit Inspections

Adding inspections to zoning permit processes can help ensure renewable energy projects comply with site plans and local zoning. This process supports timely issue identification and resolution during construction, especially for complex developments. This overview highlights key zoning permit considerations and inspection points for renewable energy projects.

Appendix C: Ongoing Performance Expectations

Long-term oversight of renewable energy projects depends on clear expectations set during land use approval. Some standards in zoning ordinances only apply once a project is constructed and operational, requiring ongoing attention from local governments. This appendix outlines key housekeeping items for long-term compliance to help track important responsibilities and maintain oversight.

Appendix D: Sample Decommissioning Agreement

Prior to issuing a permit for a project, a local government should enter into a decommissioning agreement with the project developer based on the terms specified in the decommissioning plan. This sample agreement outlines how and when a project will be decommissioned and includes some form of financial assurance—usually a performance bond—that allows the local government to execute the plan if the developer fails to do so.

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