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Nebraska Zoning Permitting Process:

Recommended Adjustments in Nebraska

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Executive Summary

County zoning is a system of regulations established by the local government detailing how land can be used within its jurisdiction. By dividing counties into different "zones," regulations specify what types of buildings or activities are permitted within each zone. Such regulations are an attempt to manage growth in a community, protect the character of a geographical area, and ensure public safety and general welfare.

In agricultural states like Nebraska, it is common for individuals, families, or companies to attempt establishing buildings, projects, or operations that are blocked by county zoning laws. To pursue such projects, they must apply for and obtain a Conditional Use Permit (CUP). CUPs allow land use that is otherwise not permitted in that zone. Currently, in Nebraska, local county officials handle and process CUP applications entirely. Unfortunately, this has led to significant inconsistencies across counties in how applications are reviewed and enforced.

To address these inconsistencies, the Nebraska Legislature passed LB106 in 2015. This legislation established a committee to create a common tool for counties to use when reviewing CUP applications. The resulting tool is known as the Livestock Siting Assessment Matrix. This matrix, available in PDF and Microsoft Excel formats, includes a series of questions that generate a cumulative score for an applicant's proposed project. The tool was designed to help counties evaluate a project's impact on the local community and environment. Although the tool has proven useful to those who use it, LB106 stated that the matrix would remain voluntary.

This report aims to provide insight into the background and effectiveness of LB106's Livestock Siting Assessment Matrix. It will begin by examining Conditional Use Permits and their application in Nebraska. It then discusses the development and implementation of LB106 and the Livestock Siting Assessment Matrix across Nebraska counties. The paper will also analyze case studies, relevant legislation, and the approach of neighboring states to this issue.

The report will conclude with recommendations for increasing education on the permitting process and encouraging counties to adopt LB106's Livestock Siting Assessment Matrix. Implementing these suggestions could help Nebraska create a more uniform and consistent regulatory framework for livestock projects while supporting the state's agricultural industry.

Nebraska's Conditional Use Permits (CUP)

In Nebraska, conditional use and special exception permits are regulatory tools used by county commissions or boards to approve specific land uses that are generally not allowed under current zoning rules but may be suitable under certain conditions. According to Nebraska Revised Statute 54-2437, when projects such as existing animal feeding operations seek to build or modify a livestock waste control facility, a county planning commission may issue additional CUPs. The main goal of these permits is to provide property owners with the flexibility to pursue specialized activities that are explicitly listed in county zoning regulations.

Under Nebraska Revised Statute 23-114.01, the authority to grant conditional use or special exception permits lies primarily with the county planning commission. However, counties have the option to retain this authority at the board level. When accepted, a conditional use permit application does not automatically allow for the given land use. Instead, it merely allows for the proposed project to be considered, subject to thorough evaluation. This ensures that developments with possible broader impacts, such as environmental or infrastructural concerns, undergo detailed scrutiny before proceeding.

When deciding to grant or deny a CUP, the planning commission or county board must issue a formal statement of factual findings. This statement is

based on the record of proceedings and explains the reasoning behind the decision. The statement promotes transparency and accountability in land use decisions, providing a clear rationale that can be reviewed if the decision is challenged. Overall, Nebraska's process for conditional use and special exception permits aims to balance the need for land use flexibility with protecting community interests and the environment.

Although, on a broad scale, the application processes for conditional use permits in various Nebraska counties are similar, the standards used to evaluate applications have historically been vague and varied between counties. These inconsistencies were recognized in 2015 when the Nebraska Legislature attempted to address the issue.

LB106 and the Livestock Siting Assessment Matrix

The ongoing growth of Nebraska's agricultural sector largely depends on expanding livestock operations throughout the state. However, these projects often need conditional use permits. In 2015, the Nebraska Legislature identified significant inconsistencies in how the state's 93 counties managed this permitting process. Differences in local zoning laws and county decision-making created major challenges for both existing and future livestock operations. In subsequent years, producers testified before the Legislature, explaining that inconsistent rules and poor application process management in zoned counties forced them to establish projects in counties without zoning. This uneven enforcement led to negative effects not just for producers but also for the counties themselves. In response, the Legislature passed LB106, which established a citizen advisory committee to help the Nebraska Department of Agriculture (NDA) develop a standardized tool for assessing proposed livestock projects.

This advisory committee, comprising county officials, agricultural producers, and experts from the University of Nebraska, met over several months to develop what would become the Livestock Siting Assessment Matrix. Released in July 2016 for voluntary use by counties, the matrix provides a framework for evaluating the environmental planning and potential effects of proposed livestock operations using objective criteria. Available in both Microsoft Excel and PDF formats, the matrix consists of a series of simple "Yes/No" questions that are assigned a certain numerical value, with each answer contributing to a cumulative project score. The first two sections of the matrix assess compliance with Nebraska Department of Environmental Quality (NDEQ) regulations and the setback requirements of the county where the project is proposed, while the remaining sections evaluate overall environmental impact. To pass, a project must earn at least 75 points.

Although using the matrix is optional, the NDA recommends that counties include it in their permit application process. When submitted with the required documentation, the matrix provides a clear, organized evaluation of a project's environmental impact, which is becoming an increasingly important factor in zoning and permitting decisions.

The Livestock Siting Assessment Matrix was designed to create fairness and predictability, yet remains underused across Nebraska's counties.

Use of the Matrix

While the Livestock Siting Assessment Matrix was initially designed to promote consistency across county lines in the permitting process, the committee responsible for developing the tool faced two major challenges in aligning its goals.

First, the matrix needed to be user-friendly for agricultural producers applying for permits, while still ensuring accuracy in the assessment. From the beginning, it was clear that the tool's simplicity and scientific rigor would be in tension. Finding this balance was difficult, as some argue the matrix is either too complex for the average user or too simple to provide meaningful analysis.

Second, the committee was tasked with maintaining local decision-making authority in each county while also promoting a standardized application process. To balance these goals, the matrix was introduced as a voluntary "template tool" that counties could adopt, modify, or reject entirely. While this approach supported local autonomy, it has also led to inconsistent adoption of the matrix, raising questions about whether the tool has achieved its initial goal of ensuring consistency in the permitting process.

Unfortunately, reality has confirmed several of these concerns. Although the matrix has been helpful in some cases, outreach by the Platte Institute to county officials across the state shows that its use has not met expectations. In May 2025, the Platte Institute reached out to all 93 Nebraska counties about their familiarity with and use of the matrix. Thirty-one of Nebraska's 93 counties responded to Platte Institute outreach, and the feedback indicated limited use and awareness of the matrix.

Of the 31 counties that responded, only 10 reported they had incorporated the matrix into their permit review process. In contrast, the remaining 21 counties, or 68% of all respondents, said they do not use the matrix at all in their permitting process. Additionally, 15 of the 31 respondents mentioned they had never heard of the matrix before Platte's outreach.

These findings highlight a key shortcoming of LB106 and the tool it established: a lack of adoption and awareness. While the matrix was created to improve consistency and efficiency in Nebraska's livestock permitting system, its voluntary nature has kept the process as inconsistent as before. Despite its potential as a useful regulatory tool, the limited awareness and usage of the matrix indicate that the system has seen little real progress.

LB663 Case Study

Over the past decade, Nebraska's Legislature has repeatedly tried to address issues related to the conditional use permit application process, as seen with LB106. In January 2025, Senator Tanya Storer's LB663 joined this effort. The bill aims to streamline and unify the permitting process across Nebraska's counties. It proposes three key reforms.

First, LB663 requires mandatory education for county officials on CUP procedures. A proposal that has received nearly unanimous support, the bill mandates two hours of training to be created and provided by the county attorney or their appointee. Second, it requires that permit application decisions be based solely on county zoning regulations. While public hearings are still necessary, the final decision for approval or denial must be based on the written code. Third, LB663 sets a clear review timeline: planning commissions must review applications fully within thirty days, inform applicants of any deficiencies within ten days, and act within ninety days after review. The county board then has thirty days to review the commission's recommendation and ninety days to make a final decision.

Having been referred to the Government, Military, and Veterans Affairs committee, a hearing for LB663 was held on February 28, 2025. During the nearly ninety-minute session, supporters and critics discussed the bill's impact, especially its effects on

local control. Proponents of the bill shared stories of producers experiencing confusion and delays during their application process due to inconsistent zoning enforcement and untrained officials. Some argued this unpredictability has caused producers to move to counties without zoning, which harms those with zoning regulations. In contrast, opponents warned that requiring officials to rely solely on zoning regulations could limit their ability to represent local public sentiment. They argued that LB663 risks reducing community input and could restrict the discretion of local boards.

In her closing remarks, Senator Storer defended the bill, emphasizing that control remains local since the bill does not remove a county's ability to write, establish, and enforce its zoning regulations. Instead, the bill simply clarifies that decisions about permits should be based on written regulations rather than the subjective discretion of county officials. Despite disagreements over local control, the bill's education requirement gained broad support from both sides, as nearly every speaker endorsed the idea of training county officials in the permitting process.

LB663 now remains on General File, awaiting committee amendments. While debate continues—particularly over local authority—the bill clearly highlights a common concern: improving education and standardization in Nebraska's permitting system.

Iowa Case Study

Thirteen years before Nebraska created its Livestock Siting Assessment Matrix, its neighbor, Iowa, used a similar tool. In 2002, the Iowa Department of Natural Resources (DNR) introduced a comparable scoring system called the Master Matrix to evaluate construction permit applications for certain livestock operations. Like Nebraska's later matrix, Iowa's system requires producers to earn a minimum number of points before they can receive construction approval.

Available as a PDF, the Master Matrix demands applicants score at least 50% of the total possible points (a minimum of 440 points) and earn at least 25% of the available points in each of the three categories: air quality, water quality, and community impact. Additionally, the matrix evaluates proposed site locations and management practices to identify potential adverse impacts on the environment and surrounding communities.

Like Nebraska's permit process, Iowa producers must complete the matrix and submit it along with other required documents, such as a construction design statement, a Professional Engineer certification form, and a manure management plan. After submission, a county official reviews the materials and completes the matrix independently. Whether the county assigns a passing or failing score, it must submit a recommendation to the DNR. If the application violates state regulations, the DNR will issue a preliminary denial. However, if the project meets legal requirements but receives a failing matrix score from the county, the DNR will conduct its own scoring of the matrix. If the DNR's assessment results in a passing score, the application is approved.

Although Iowa's Master Matrix process is very similar to Nebraska's Livestock Siting Assessment Matrix in structure, the main difference is in how the tool is adopted and used. As of February 2025, 85 of Iowa's

Iowa's success proves that livestock permitting doesn't have to be chaotic, it requires structure, consistency, and follow-through.

99 counties have adopted the Master Matrix, whereas Nebraska's use of its tool is inconsistent and limited. This difference can be traced to how the tools are promoted and maintained at the state level. Nebraska's method, which involves releasing the matrix and making adoption optional for county officials, has resulted in unfamiliarity and underuse. In contrast, Iowa has a yearly enrollment process that keeps counties engaged and informed.

Each December, the DNR informs all Iowa counties about the opportunity to enroll in the Master Matrix for the upcoming year. To participate, counties must pass a construction evaluation resolution each year between January 1 and January 11, officially expressing their intent to use the matrix. This opt-in approach ensures local control, allowing counties to choose whether to adopt the matrix, while also encouraging consistent usage across the state. Additionally, the DNR's routine outreach efforts have helped maintain awareness and proper use of the tool year after year, making the Iowa Master Matrix a notable success.

Recommendations

The efforts of the Nebraska Legislature, along with the lobbying of local producers, highlight a clear issue in Nebraska's CUP permitting process. Several individuals in the committee hearing for LB663 addressed the challenges Nebraska farmers face due to inconsistent standards across county lines. Although the Livestock Siting Matrix was designed to tackle this problem, evidence indicates that, while the matrix can be a helpful tool, it is not being utilized at a level sufficient to resolve the issue effectively. Given this shortcoming, this report suggests two actions.

Mandatory Education

First, this report recommends requiring education for county officials on the permitting process. As discussed earlier, during the committee debate over LB663, most speakers agreed that increasing education for county officials would not only be helpful but also essential. Additionally, it is recommended to include information about the Livestock Siting Matrix in that education. To balance county autonomy with the desire to create a more uniform process, educating county officials about the resources available to them could significantly reduce the negative impacts experienced by producers across the state.

Matrix Enrollment System

Second, we suggest implementing a "Matrix Enrollment" process similar to the one used in Iowa. This process requires each county to declare their intent to use the matrix at the start of each new year by passing a resolution. To remind counties about the enrollment process, the Nebraska Department of Natural Resources or another appropriate department would notify Nebraska counties each year about their option to enroll. While counties still have the choice to opt out of using the matrix, this process serves as a reminder not only of the matrix's existence but also of its potential as a useful tool in the permitting process.

Conclusion

It is clear that Nebraska's inconsistent permitting process has negatively impacted producers and counties across the state. As a state that depends heavily on agricultural production and its growth, a new approach must be found to address this issue.

Examining the Livestock Siting Matrix developed through LB106 in 2015, the matrix appears to be a valuable tool that can help make the permitting process more efficient. However, research by the Platte Institute has revealed that only a small number of counties use the matrix, and alarmingly, many counties are unaware that the tool exists. Given the success of the "Master Matrix" in Iowa and the discussion around LB663, it is clear that meaningful change can be achieved by following the recommendations mentioned above.

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