



2026 NACO RESOURCE

LB663 and NACO Land Use Permit Toolkit

How to Use the Toolkit: A Guide for Counties



A New Framework for County Zoning Decisions

What LB663 Does

- Creates new statutory timelines for all county zoning decisions
- Adds training requirements for officials involved in zoning
- Applies to conditional use permits (CUPs) and special exceptions
- Missing a deadline results in automatic approval of the application

Why It Matters for Counties

- Sets clear, predictable expectations for applicants and the public
- Protects counties that keep decisions moving on schedule
- Effective for zoning decisions on or after July 18, 2026
- Full text: Neb. Rev. Stat. § 23-114.03



New Timelines for Permit Decisions

Completeness & Decision Clock

- Planning commission or zoning administrator: 30 days to decide if an application is complete
- Once complete, 90 days to approve or deny the application
- County board: same 30-day completeness review, 90-day decision clock
- Auto Approval of application if the County Board misses a deadline

When New Information Is Submitted

- Applies only if new information comes in during the 90-day review
- Only triggers if that information materially affects the application
- If it does, the board may require a new application
- Or, the board may require a presentation of the needed information



Decision Standards, Compliance & Appeals

Decision Standards

- Approval must rest only on compliance with county zoning regulations
- Applicants can't be required to get other federal, state, or local permits first
- Applicants remain responsible for obtaining those other permits

Presumption of Compliance

- Boards and commissions must presume the applicant will follow all federal, state, and local law
- Anyone challenging that presumption carries the burden of proof

Appeals

- An appellant must prove, by clear and convincing evidence, the decision was:
- Arbitrary or capricious, or illegal or
- Did not adhere to the county zoning regulations



Training Requirements for County Officials

Education: Two Hours, Every Term

- Required for county attorneys, planning commission members, and county board members
- Applies only in counties with zoning in place
- Two hours of zoning and permitting education per term
- Hours do not need to be submitted to another agency or department

How Hours Are Tracked

- County board members: tracked by NACO through NACO education events
- County attorneys: tracking pending clarification from the Crime Commission (pending clarification on current CLE structure)
- Planning commissioners: certification workflow in progress with NPZA
- Term ending in 2026? This webinar counts toward it



Do State & Federal Rules Still Apply?

Q

Does an applicant still need to abide by state and federal requirements?

A

Yes. When deciding whether to approve a conditional use permit or special exception, the commission and board must presume the applicant will comply with all local, state, and federal requirements. The burden of proof falls on whoever challenges that presumption — without evidence to the contrary, the application should be approved. See Neb. Rev. Stat. § 23-114.03(5)(c).



What Happens if Rules Are Broken After Approval?

Q

If the county finds that an applicant did not follow state or federal permitting rules after a CUP was approved, what's the next step?

A

A county has no recourse specifically identified however, a county could report the non-compliance to an agency.



Does LB663 Apply to All CUPs & Special Exceptions?

Q

Does LB663 apply to all conditional use permits or special exceptions?

A

Yes. The “shot clock” and other provision in § 23-114.03(7)(b) are not limited to any single classification of permit — it applies to conditional use permits and special exceptions generally. The one exception is § 23-114.03(5)(b), which applies specifically to livestock conditional use permits or special exceptions.



What if Our County Has No Zoning?

Q

What if our county doesn't have zoning regulations?

A

Then LB663 does not apply to your county or your county officials. To have zoning in place, a county must have both a comprehensive development plan and zoning regulations. Without that framework, counties are unable to regulate current or emerging land uses — and it's questionable whether they may impose a moratorium on land use development.



Can We Update Zoning Mid-Application?

Q

What if our zoning regulations need updating after a conditional use permit is submitted?

A

A county may impose a moratorium — a short pause on zoning activity, either county-wide or for a single emerging issue. While case law has permitted moratoriums as long as 22 months, it's recommended that they run no longer than 6 months to 1 year.



What about the new Executive Order?

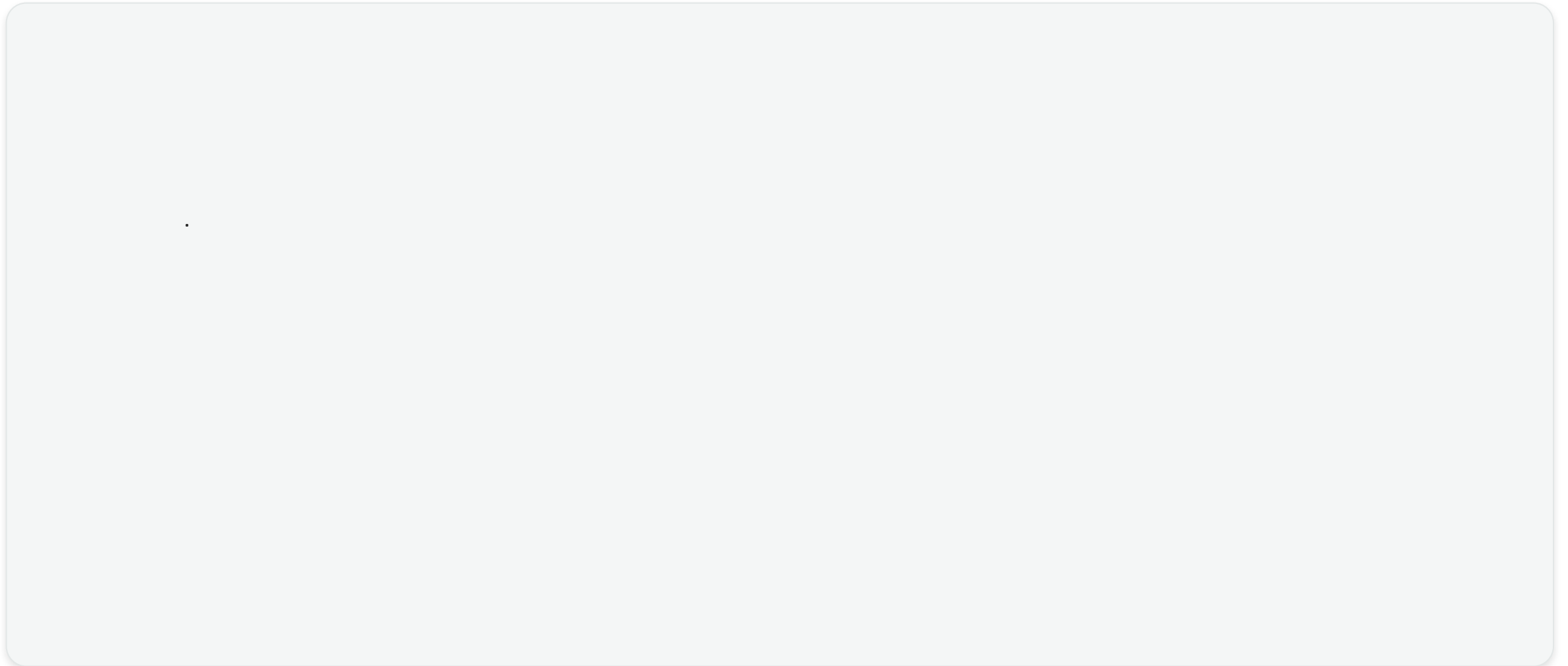
Q

How does the Executive Order that was issued Monday impact Property Tax Exemptions?

A

Existing data centers that used ImagineNE Nebraska Act or Nebraska Advantage Act as of right now are able to retain the property tax exemption. Those who apply through DWEE after the Executive Order should not have a property tax exemption. NACO will work with senators regarding the grandfathered data centers to seek a solution to personal property exemptions in 2027.

County Zoning Maps





What We'll Cover Today

01

Purpose & Role of NACO

Why this toolkit exists and what it is (and isn't)

02

How the Toolkit Is Built

The four-part structure used in every section

03

Section-by-Section Walkthrough

Quick overviews of all topic sections

04

Appendices & Resources

Templates, case studies, glossary

05

Questions?

If you prefer to email a question about the toolkit Luke.Bonkiewicz@nebraskacounties.org



The Role of NACO & This Toolkit

“The NACO Land Use Committee does not advocate for or against specific development types. Its role is to provide counties with information, planning tools, and regulatory considerations that support local decisions.”

- Provides information, not a mandate — decisions remain local
- Reflects community priorities, applicable law, and sound planning
- Appendices are examples & templates — not model ordinances or legal advice
- Always consult county attorneys, planning professionals, utility providers, and engineers

The Committee — county leaders, local and industry experts, land use consultants and NACO staff — collaborated for the last several months to build this toolkit.

Each Section Follows the Same 4-Part Structure

1

Key Takeaways

A concise overview of concepts, statutory considerations, and policy issues.

2

Siting Considerations

Background on legal requirements, planning principles, and community impacts.

3

Best Practices

Guidance for developing procedures, evaluating applications, and setting permit conditions.

4

Appendices

Example hearing scripts, legal case summaries, case studies, and technical contacts.

This same framework repeats across topic sections.

A “Pull-Apart”, Living Document

Designed to Be Used in Pieces

- Each section is a stand-alone reference — pull out just the Solar or Livestock chapter for a specific hearing
- Appendices provide templates and example language, not mandatory standards
- Each section will be discussed in future educational sessions.

Subject to Change

- Emerging land uses — data centers, BESS, solar — are evolving rapidly at the technology and market level
- State law (e.g., LB663, LB1010, LB1261) and agency guidance will continue to develop
- Counties should revisit regulations periodically as practices, standards, and case law evolve - new land use issues may be added

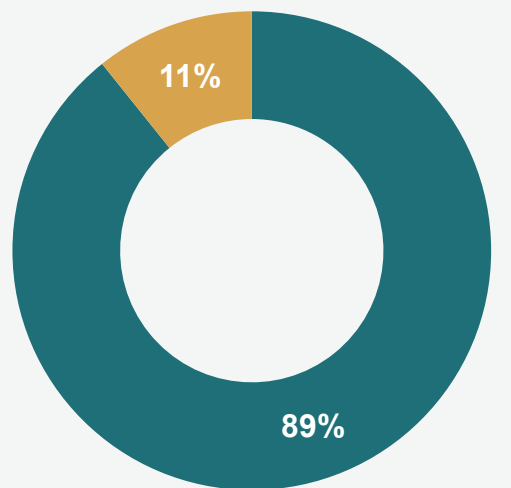
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The State of Zoning in Nebraska

Counties with Adopted Zoning & Comprehensive Plans



■ Zoning Adopted (83) ■ No Zoning (10)

What This Means for Counties

- 83 of Nebraska's 93 counties (~89%) have adopted zoning and a comprehensive plan
- Zoned counties are positioned for orderly growth, protecting ag land and the tax base
- The Nebraska Dept. of Agriculture also designates voluntary “Livestock Friendly Counties” — a promotional program that does not limit local zoning authority
- Counties without zoning may still face LB663 pressures as emerging land uses (solar, data centers, BESS, etc.) seek sites statewide



Zoning Authority & Comprehensive Plans

Zoning Authority

- Authority is delegated by the state — county boards regulate land use in unincorporated areas
- Zoning may only be adopted after a comprehensive development plan exists
- 14 statutory purposes (Neb. Rev. Stat. § 23-114.03) — health, safety, tax base, agriculture, and more
- Conditional use permits (CUPs) allow case-by-case review of uses not permitted by right

Comprehensive Development Plans

- The county's 10–20 year vision for growth — land use, transportation, utilities, housing
- Zoning must have a “rational nexus” to the plan and its stated purposes
- Full plan adoption takes ~15–18 months; zoning follow-up takes another 6–8 months
- Should be reviewed annually and kept current as conditions change



LB663 (2026): The Permit Review “Shot Clock”



- Incomplete applications: county must notify applicant within 10 days of what's missing
- Decisions must rest on adopted zoning regulations & documented evidence
- Counties cannot condition zoning decisions on separate state, federal, or utility permits
- County attorneys, planning commissioners, and board members: 2 hrs of zoning/permitting education per term



Moratoriums & Private Land Rights

Moratoriums

- Temporary tool to pause approvals while a county studies an emerging issue
- Must serve a legitimate, documented public purpose — not indefinite delay
- Legal risk rises with duration; ~6-12 months is a common defensible ceiling
- Always consult county attorney before adopting or extending

Private Land Rights

- Constitutionally protected for both participating and non-participating landowners
- Permit conditions must be proportional to actual, documented project impacts
- Zoning approval is separate from eminent domain — it does not grant condemnation power
- Consistent, evidence-based decisions help avoid regulatory takings claims



Public Hearings & Pre-Submission Process

Public Hearings

- Standardized opening statement, speaking order, and time limits promote fairness
- Decisions rest on the hearing record — not audience size or emotion
- Avoid ex parte contact; disclose any outside communications on the record
- Appendix A provides a ready-to-use facilitator checklist and script

Pre-Submission Process

- Optional pre-application meeting surfaces issues before the LB663 clock starts
- Project-specific checklists set expectations for studies, plans, and agreements
- Early coordination with utilities, highway dept., and emergency services, etc.
- The clock starts only once an application is deemed complete



Public Power & Energy in Nebraska

Why This Section Matters

Scale Snapshot

- Nebraska is the only state served entirely by publicly owned, not-for-profit electric utilities
- Utilities operate within the Southwest Power Pool (SPP), a 17-state regional grid
- Understanding why electricity demand is increasing
- Understanding how utilities are responding
- From household to hyperscale, understanding typical electrical power units

Solar & Wind Energy Siting



SOLAR

- Ranges of sizes of solar development
- Setbacks & screening tied to compatibility concerns
- Agrivoltaics can keep grazing/pollinator habitat alongside panels
- Decommissioning plan + financial assurance for ground-mounted projects
- Utility interconnection & wildlife review are separate, parallel processes

WIND

- Accessory systems to utility-scale wind development
- Setbacks tied to compatibility concerns
- Road/bridge agreements for oversized loads, cranes, heavy equipment
- FAA obstruction evaluation & aviation lighting are the applicant's responsibility
- Decommissioning plan should address turbine & foundation removal

Data Centers & Battery Energy Storage

DATA CENTERS

- Not one-size-fits-all: small enterprise to hyperscale
- Infrastructure readiness — power, water, fiber, wastewater
- Cooling system type (open- vs. closed-loop)
- LB1010 large-load provisions apply above 10 MW — administered by utilities
- Counties decide zoning independently of utility/state review timelines

BATTERY STORAGE (BESS)

- Standalone or hybrid (paired with solar/wind/data centers)
- Fire safety & thermal runaway mitigation
- Standards for consideration to be technology-neutral
- Decommissioning may address battery recycling and disposal

Livestock, Fiber Deployment & Cell Towers

LIVESTOCK

- Small/family to large Confined Animal Feeding Operations (CAFOs)
- Nebraska Livestock Siting Matrix & UNL Ag Site Planner support objective review
- Odor, setbacks & manure management
- State/federal CAFO permits run separately from local zoning

FIBER DEPLOYMENT

- Managed via right-of-way (ROW) use permits, not zoning ordinances
- Nebraska 811 One-Call required before any excavation
- Route plans, restoration standards & bonding protect county roads
- Fees must be cost-based, neutral & non-discriminatory

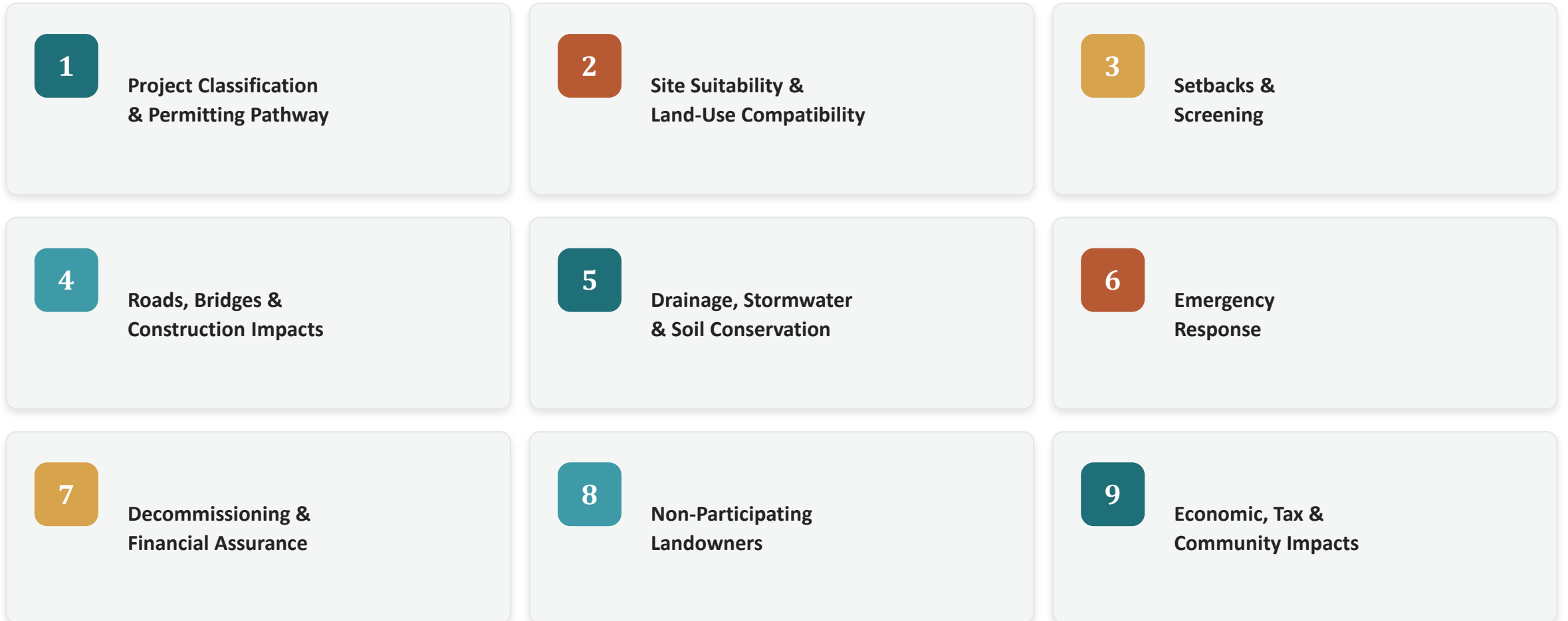
CELL TOWERS

- Co-location analysis required before approving a new tower
- Setbacks/fall zones tied to tower height & engineering certification
- FCC shot-clock rules (60/150 days) run independently of LB663
- FAA & FCC registration are the applicant's responsibility



One Consistent Framework, Every Time

Every siting-considerations section (Solar through Cell Towers) walks through similar core considerations:





Appendices Walkthrough (1 of 2)

A

Recommended Checklist / Script for Hearing Facilitators

A ready-to-use script covering welcome remarks, civility rules, testimony management, and ADA accommodation language.

B

Pre-Application Process for Applicants

An 8-phase checklist applicants can follow — from the pre-app meeting through completeness review.

C

Selected Legal Foundations & Case Reviews

Plain-language summaries of Euclid, Penn Central, Nollan/Dolan, Koontz, Sheetz, Tahoe-Sierra & Nebraska cases.



Appendices Walkthrough (2 of 2)

D

Case Studies

First-hand accounts from Hall, Hamilton, York & Lancaster County officials — moratoriums, hearings, solar, livestock, and data centers.

E

Additional Primers & Templates

QR-linked documents: county pet regulations, CO₂ pipelines, a haul road agreement, and a county ROW permit template.

F

LB663 Permit Review Timeline Graphic

A full-page, printable version of the “shot clock” flowchart from the LB663 section.



Glossary & Agency Directory

Glossary of Terms (p. 81)

Over 50 defined terms — from Agrivoltaics to Zoning Ordinance — so board members, applicants, and the public share a common vocabulary.

- *Rational Nexus*
- *Setback / Fall Zone*
- *Decommissioning Plan*
- *Nameplate Capacity*
- *Thermal Runaway*

Agency & Technical Resource Directory (p. 85)

A one-stop directory of local, state, and federal contacts referenced throughout the toolkit.

- NE Power Review Board
- NE Dept. of Water, Energy & Environment
- NE Dept. of Agriculture
- Natural Resources Districts (NRDs)
- FCC / FAA / U.S. EPA / USACE



Bringing It All Together

1

This toolkit informs local decisions — it does not replace them

2

Use the 4-part structure to quickly find what you need in any section

3

Lean on the Appendices for ready-to-use scripts, templates & legal grounding

4

Revisit sections periodically — technology, state law, and case law keep evolving

5

Consult your county attorney, planning staff, and subject-matter experts



Questions? Let's Go to the Toolkit

Full toolkit, templates, and case studies available through NACO. Go to Education Catalog on nebraskacounties.org

Nebraska Association of County Officials (NACO)

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