

# Nebraska Wind and Solar Conference Lincoln, Nebraska

Planning and Zoning Basics for  
Renewable Energy

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# Land Use Law Fundamentals

- Nuisance Prevention
- The “Police Power” - Public Health, Safety, Welfare and Morals
- Minimum Intrusion Necessary
- Balance Private Property Rights

# Dillon's Rule

Municipalities only have powers state has expressly delegated to them

- *Merrill v. Monticello*, 138 U.S. 673 (1891)
- *Clinton v. Cedar Rapids & M.R.R. Co.*, 24 Iowa 455 (1868)

# Typical Players in Zoning Matters

- Zoning Administrator
- Planning Commission
- Board of Adjustment / Zoning Board of Appeals
- City Council / County Supervisors or Commission

# Other Considerations

- Nebraska statutes differ depending on size of city and status as city or county
- Differences as to specific procedures

# Standards

- Clear, understandable standards
- Definitions are key
- Have a "why" for each requirement
- Be careful copying and pasting
- Consider streamlining

# Planning Commission

- Legal basis
- Practical basis
- What does it do?

# Due Process

- Citizens' Rights
- Applicant's Rights
- Balance
- Litigation Risk



# Discretion

- Present
- Limited
- Balance
- Facts and law
- Dillon's Rule

# Landowners

- Participating Landowners
- Non-Participating Landowners
- Property Lines
- Residences

# Balance Interests of Community

- Property rights
- Property taxes
- Economic development
- Energy diversity

# Similar Treatment

- Treat all land uses similarly and from the same legal basis
- Do not apply one set of noise standards to one type of use and a vastly different set of standards to another type of use

# Questions?

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