

June 6, 2022

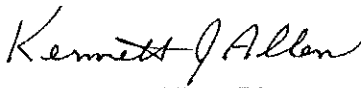
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To whom it may concern:

Please print the following notice in the Lincoln Journal Star by June 9, 2022:

NEBRASKA BOARD OF BARBER EXAMINERS NOTICE OF PUBLIC HEARING FOR AN AMENDMENT TO TITLE 51 OF THE NEBRASKA ADMINISTRATIVE CODE  
Notice is hereby given the Board of Barber Examiners will hold Regulation Change hearing pursuant to Neb. Rev Stat. 84-907 on Sunday the 24<sup>th</sup> day of July, 2022 at 2:00 p.m. to be held at College of Hair Design, 304 S. 11<sup>th</sup> St., Lincoln, NE, use the west, main entrance. The purpose of the hearing is to discuss proposed regulation changes regarding eliminating Booth Rental Permits. Draft copies of the Rules and Regulation to be amended are available for examination at the Board of Barber Examiners office, Monday through Friday, between 8 a.m. and 5 p.m. and on the Nebraska Secretary of State's website at <https://sos.nebraska.gov/>. All interested persons are invited to attend and comment at the hearing. Written comments are also welcome and will be given the same consideration as comments made in person. Written comments must be received at the Board Office by July 21, 2022. Written comments should be sent to Nebraska Board of Barber Examiners, PO Box 94723, Lincoln, NE 68509 or emailed to [barbers.board@nebraska.gov](mailto:barbers.board@nebraska.gov). Individuals with disabilities in need of assistance contact Ken Allen, PO Box 94723, Lincoln, NE 68509 or (402) 471-2051 by July 21, 2022, to discuss accommodations available to meet your needs.

Sincerely,  
Board of Barber Examiners

  
Kenneth J. Allen, Director

KJA/ks

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SECRETARY OF STATE

## DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Board of Barber Examiners	
Title: NAC 51	Prepared by: Ken Allen
Chapter: 1, 2, 3, 4	Date prepared: March 10, 2022
Subject: Definitions, Licensing and Permits, Licensing and Issuance of Permits, Change of Ownership, Barber Shop	Telephone: 402-471-2051

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( )	(X)	(X)
Increased Costs	( )	( )	( )
Decreased Costs	( )	( )	( )
Increased Revenue	( )	( )	( )
Decreased Revenue	(X)	( )	( )
Indeterminable	( )	( )	( )

Provide an Estimated Cost & a Description of Impact:

State Agency: The Agency will have a negative revenue of approximately \$17,500.00 in fiscal yr. 22/23 due to elimination of Booth Permits and the renewal fees. A negative revenue of approximately \$1750.00 in fiscal yr. 23/24 due to elimination Booth Permits and the renewal fees.

Political  
Subdivision:

Regulated  
Public:

If indeterminable, explain why:

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*NAC Title 51 - Nebraska Board of Barber Examiners*

*Rules and Regulations*

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## CHAPTER 1 – DEFINITIONS

**ADEQUATE** refers to both quantity, quality and equivalent to sufficient.

**ACCEPTABLE** means fulfilling the needs and requirements.

**APPROVED** means accepted by the Board.

**ASSISTANT INSTRUCTOR** as defined in Neb. Rev. Stat. 71-202.01.

**BARBER** as defined in Neb. Rev. Stat. 71-202.01.

**BARBER ACT** as cited in Neb. Rev. Stat. 71-201 through 71-248.

**BARBER SHOP** as defined in Neb. Rev. Stat. 71-202.01.

**BARBER SCHOOL OR COLLEGE** as defined in Neb. Rev. Stat. 71-202.01.

**BOARD** as defined in Neb. Rev. Stat. 71-202.01.

**BOOTH** means that portion of a barber shop rented or proposed to be rented to a person who is or will be practicing barbering ~~under a booth rental permit~~. A booth may be either a station in an open shop area or an enclosed suite.

~~**BOOTH RENTAL PERMIT** means authorization issued by the Board to engage in the practice of barbering as an independent contractor or self-employed person in a space rented on the premises of a licensed barber shop.~~

**BUSINESS HOURS** means the office hours of the Board, Monday through Friday, from 8:00 to 5:00, exclusive of state holidays, for purposes of conducting business with the Board or meeting time requirements set by these regulations. For purposes of inspection, business hours include office hours of the Board and those hours stated as shop or booth hours on the application by the licensee or permittee.

**CHANGE OF LOCATION** means relocation into new surroundings not currently registered with the Board office as a barber shop, booth, or school.

**CLEAN** means the absence of soil or dirt or the removal of soil or dirt by washing, sweeping, clearing away or any other method.

**COMMON AREAS** means those portions of a shop premises which all barbers performing services in the shop, ~~or operating under a booth rental permit, use~~, which may include but are not limited to: reception area, dispensing area, sinks, shampoo bowls, hair dryers and employee lounges.

**DISINFECT** means to use a process to destroy harmful bacteria.

**EFFECTIVE DATE** means the date a rule or disciplinary decision goes into effect.

**ENCLOSURE** means a cabinet, drawer or container.

**HAIR INDUSTRY** means individuals licensed as a barber or barber instructor, or in states issuing a combination form of licensure, individuals licensed as a barber-cosmetologist or a barber-cosmetology instructor.

**INCOMPETENCE** means lack of knowledge or skills in discharging professional obligations.

**INDEPENDENT CONTRACTOR** means a self-employed person who performs work for another but is subject to that person's control only as to the result of the work, and not as to the methods or means used.

**INSTRUCTOR** as defined in Neb. Rev. Stat. 71-202.01.

**LICENSE** as defined in Neb. Rev. Stat. 71-202.01.

**MANAGER** as defined in Neb. Rev. Stat. 71-202.01.

**MOBILE BARBER SHOP** as defined in Neb. Rev. Stat. 71-202.01, which meets all applicable rules and regulations under the Barber Act applicable to barber shops except for Ch.3 003.03 in this section.

**NEW BARBER SHOP** means an application has been made to the Board office requesting an inspection and approval of the premises for licensing.

~~**PERMIT** means a booth rental permit issued by the Board.~~

**PRACTICAL WORK AREA** means the act of performing barbering services.

**PREMISES** means the entire area of the shop or school which the Board has licensed and designated as a shop or school.

**PROPERLY** means requisite standard of competence and validity.

**REGISTERED BARBER** as defined in Neb. Rev. Stat. 71-202.01.

**RESTORATION FEE** means the annual fee assessment for an inactive license or registration.

**REVOKED** means the license is cancelled, voided, annulled, rescinded. The right to practice barbering is ended.

**RULES AND REGULATIONS** means any rules authorized to be made by the Board which have been promulgated and filed, as provided in Chapter 84, Article 9, of the Nebraska Revised Statutes.

**SANITARY** means free from agents of infection, disease or infestation by insects and vermin and free of soil, dust or foreign materials.

**SANITIZED** means rendered free of soil, dust, foreign materials and agents of disease or infestation by insects or vermin through the use of effective cleaning and disinfecting processes.

**SANITIZER** means a container holding a sanitizing agent which is large and deep enough to submerge tools or implements, or portions thereof, which are to be disinfected.

**SECRETARY TO THE BOARD** means the Director appointed by the Board who shall keep a record of the proceedings of the Board.

**SELF-EMPLOYED PERSON** means an individual who is a sole proprietor, an independent contractor, a member of a partnership, or someone who is otherwise in business for him or herself.

**SOILED** means an article which has been used and has not been cleaned or sanitized.

**STATION** shall include, but not be limited to: barber chair, back bar with cabinet storage, linen enclosure, mirror and container for the disposal of soiled towels.

**STUDENT** as defined in Neb. Rev. Stat. 71-202.01.

**SUSPENSION** means the licensee is prohibited from practicing for a specific period of time.

**THEORY** means the written knowledge applicable to approved principles of barber science and practices, including demonstrations and lecturing.

**TRANSFER OR CHANGE OF OWNERSHIP** means the conveyance of title or property from one person to another.

**VERIFICATION OF INCORPORATION** consists of articles of incorporation or good standing certificate or annual tax report.

## **CHAPTER 2 - ~~LICENSES AND PERMITS~~ LICENSING OF INDIVIDUALS**

**001 FORM:** Every license ~~or permit~~ issued shall be in the form of a certificate which shall have thereon:

**001.01** The name of the applicant.

**001.02** The class of license ~~or permit~~.

**001.03** The date on which issued.

**001.04** The official name of the Board together with its seal.

**001.05** The signatures of the members of the Board and the Director.

### **002 CHANGE OF ADDRESS AND/OR NAME:**

~~002.01~~ Any licensed barber who changes his or her name and/or address must notify the Board office within thirty (30) days of the change.

~~002.02~~ Any holder of a booth rental permit shall provide the Board with ten days' written notice before changing his or her work address.

**003 LATE FEE - BARBER, INSTRUCTOR, ASSISTANT INSTRUCTOR, BARBER SHOP, BARBER SCHOOL:** A licensee ~~or booth rental permit holder~~ eligible for renewal of an expired license ~~or permit~~, pursuant to the Barber Act, may renew such license ~~or permit~~ by payment of the renewal fee and a late fee on or before the 60th day after its expiration date.

**004 INACTIVE FEE - BARBER, INSTRUCTOR:** A licensee eligible for restoration of an inactive license, pursuant to the Barber Act, may restore such license within five (5) years of its expiration date by payment of the renewal fee and a restoration fee.

## **CHAPTER 3 – BARBER SHOP LICENSING AND ISSUANCE OF PERMITS**

### **001 LICENSING OF NEW BARBER SHOPS OR CHANGE OF LOCATION**

**001.01 Application.** Before any person or persons may open a new barber shop or change the location of an existing barber shop, an application shall be made requesting an inspection and approval of the premises.

**001.02 Contents of Application.** Each application is to be made on a form provided by the Board and submitted with the fee set pursuant to the Barber Act, and shall provide the following:

**001.02A** Barber shop name.

**001.02B** Barber shop address.

**001.02C** Barber shop owner.

**001.02D** Owner's notarized signature and Social Security number.

**001.02E** Verification of incorporation if applicable.

#### **~~001.02F Booth Rental Information.~~**

**~~001.02F1 Rental Agreement.~~** ~~If the applicant proposes to lease any portion of the shop to any independent contractor or self-employed person under a booth rental permit, applicant is to have available for inspection the proposed rental agreement, which is to:~~

**~~001.02F1a~~** ~~contain notice defined in Nebr. Rev. Stat. 71-219.02 (2).~~

**~~001.02F1b~~** ~~identify the respective responsibilities of the shop owner and booth rental permit holder with regard to the booth and any common areas or other shop premises available to the booth rental permit holder consistent with the laws and rules and regulations governing requirements for barber shops; and~~

**~~001.02F1c~~** ~~require that a key to a rental booth that is an enclosed suite be readily available to inspectors at any time during business hours as defined in these regulations, whether or not the permit holder is present or the booth is open for operation during such hours.~~

**~~001.02F2 Status of Barbers.~~** ~~Applicant shall identify all barbers who will provide services in the shop as employees and those who will operate in the shop under a booth rental permit. Applicant is to provide proof of employment for all barber employees and, upon request, shall make available for inspection all rental agreements for those who will operate under booth permits.~~

**~~001.02G~~ 001.02F Description of the Premises.** The application shall describe the physical characteristics of the shop, including the information set forth below. If any portion of the shop is to be leased as a booth, the applicant shall identify those portions of the shop to be leased and shall provide the physical characteristics and other information required with respect to each booth.

**~~001.02G1~~ 001.02F1** Room size.

**~~001.02G2~~ 001.02F2** Type of floor.

~~001.02G3~~ 001.02F3 Type of wall

~~001.02G4~~ 001.02F4 Type of ceiling.

~~001.02G5~~ 001.02F5 Type of lighting.

~~001.02G6~~ 001.02F6 Methods of ventilation.

~~001.02G7~~ 001.02F7 Restroom facilities.

~~001.02G8~~ 001.02F8 Other rooms available and their usages, if applicable.

~~001.02G9~~ 001.02F9 Water supplies.

~~001.02G10~~ 001.02F10 Waste disposal.

~~001.02G11~~ 001.02F11 Hot water capacity/recovery rate.

~~001.02G12~~ 001.02F12 Number of barber chairs.

~~001.02G13~~ 001.02F13 Number of shampoo bowls.

~~001.02G14~~ 001.02F14 Number and description of immersion sterilizers.

~~001.02G15~~ 001.02F15 Trade names of germicidal solutions.

~~001.02G16~~ 001.02F16 Proposed opening date.

~~001.02G17~~ 001.02F17 Any other information the Board deems necessary.

**~~002~~ BOOTH RENTAL PERMITS**

~~002.01~~ Application Required, as defined in Neb. Rev. Stat. 71-219.02.

~~002.02~~ Contents of Application as defined in Neb. Rev. Stat. 71-219.02:

~~002.02A~~ Days and hours of operation.

~~002.02B~~ A description of where and/or with whom a key to the booth is to be found and made readily available to the inspector.

**~~003~~ 002 LIMITATION ON LOCATION AND USE OF ROOMS USED AS A BARBER SHOP.**

~~003.01~~ 002.01 A barber shop in a place where food is prepared and served must be separated by a partition, ceiling height, of lath and plaster, glass or other solid material. If a door is cut through, it shall be hung with spring hinges or other self-closing appliances. If confectionery is sold in a barber shop, it must be in sealed packages.

~~003.02~~ 002.02 No room or rooms licensed as a barber shop shall be used as a sleeping room.

~~003.03~~ 002.03 A barber shop shall be a fixed, permanent structure or a part of one, except for a Mobile Barber Shop as defined in Neb. Rev. Stat. 71-202.01.

~~003.04~~ 002.04 In barber shop/cosmetology salons that occupy the same location, the barber practical work area shall be visually distinct from the other and shall be clearly identified as such to the public by a sign.

~~003.05~~ 002.05 A barber shop located in any private dwelling shall permit patrons to enter the shop directly from a public thoroughfare without passing through any other portion of the building. The barber shop area shall be separated from the living area by walls extending from floor to ceiling, except that there may be one connecting door to the private dwelling which shall be kept closed/locked while the shop is in actual operation, and shall not be for use by the general public. Such door into the private dwelling shall only be permitted where a toilet facility exists in that portion of the



private dwelling licensed as a barber shop. Both the residence and the barber shop may be serviced by the same electric, gas, water and sewer facilities.

~~003.06~~ **002.06** An application for a barber shop in a private dwelling in any village or city must be accompanied by a document from that government body stating that the new owner has complied with all laws, regulations and codes for that particular location.

~~004~~ **003** **FIXTURES REQUIRED (MINIMUM)**

~~004.01~~ **003.01** In general. The minimum fixtures required for every barber shop are as follows:

~~004.01A~~ **003.01A** Barber pole or barber sign.

~~004.01B~~ **003.01B** Barber chair.

~~004.01C~~ **003.01C** Back bar.

~~004.01D~~ **003.01D** One shampoo bowl for every five stations.

~~004.01E~~ **003.01E** Mirror.

~~004.01F~~ **003.01F** Enclosure for clean towels and implements.

~~004.01G~~ **003.01G** Containers for disposal of soiled towels and other waste materials.

~~004.01H~~ **003.01H** Hot water system.

~~004.01I~~ **003.01I** Restroom facilities.

~~004.01J~~ **003.01J** Immersion sterilizer.

~~004.01K~~ **003.01K** Approved germicidal solution.

~~004.02~~ **003.02** **Rental booths**

~~004.02A~~ **003.02A** **Enclosed Suites.** Each booth rented by a barber shop that is an enclosed suite shall contain the minimum fixtures of ~~004.01~~ **003.01**, except that:

~~004.02A1~~ **003.02A1** One barber pole or barber sign is sufficient for the shop as a whole.

~~004.02A2~~ **003.02A2** Every suite is to contain at least one shampoo bowl.

~~004.02A3~~ **003.02A3** Separate toilet facilities for each suite are not required, provided that access is available to facilities as provided by section 005.07 of these regulations.

~~004.02B~~ **003.02B** **Booths in Open Shops.** When rental booths are not enclosed suites, the minimum fixtures described in ~~004.01~~ **003.01** shall be available without obstruction.

~~005~~ **004** **PROPER QUARTERS**

~~005.01~~ **004.01** All fixtures and equipment, including those in the waiting area, shall be kept in a clean, orderly and sanitary condition.

~~005.02~~ **004.02** Sanitized tools and implements shall be stored separately from all others.

~~005.03~~ **004.03** Storage drawers for sanitized tools and implements shall be clean, free of hair and used only for the sanitized tools and implements.

~~005.04~~ **004.04** All soiled tools and implements shall be deposited in a separate receptacle. Nail care and waxing implements that come into direct contact with a client and are not capable of being sanitized in accordance with Rule 8 shall be disposed of in a waste receptacle immediately after use. i.e., emery boards, spatulas, wax and waxing strips.

~~005.05~~ **004.05** Shampoo bowls located in common areas shall have access without obstruction.

~~005.06~~ **004.06** Each barber chair must be in good condition, mechanically sound and with acceptable covering of a material capable of being sanitized and free of tears. Barber chairs shall be placed at least four and one-half feet apart, center to center, and each chair must occupy not less than thirty-five square feet of floor space.

~~005.07~~ **004.07** A barber shop shall have toilet facilities which shall be located on shop premises, except for a barber shop located in a commercial building in which public toilet facilities are available and reasonably accessible directly from the public thoroughfare. All toilet facilities located on the shop premises shall be kept clean, sanitary and in working order at all times. Toilet facilities shall not be required in barber shops holding a valid barber shop license March 25, 1989.

~~005.08~~ **004.08** Floor surfaces in the work area of a shop shall be of washable, non-absorbent material and shall be kept clean and in good condition. Plastic floor mats or runners are required in shops with carpeted floor covering in the work area, holding a valid barber shop license prior to the effective date of this rule. Wooden floors may be acceptable if they have a water-proof finish.

~~005.09~~ **004.09** Tanning areas, including tanning devices and equipment located on the licensed premises, is to be maintained in a clean and sanitary condition and operated in accordance with the manufacturer's instructions. Owners' request the manufacturer include in the purchasing agreement that their equipment, materials and advertising are in compliance with FDA laws and regulations. Tanning equipment shall be sanitized after each use, a sanitary towel provided to each client, a receptacle available for the disposal of all soiled towels and the client furnished with protective eye wear.

#### ~~006~~ **005 INSPECTION**

~~006.01~~ **005.01** An inspection of the new barber shop shall be conducted to determine compliance with sanitary requirements. The inspector shall file a report of this inspection. No barber shop license shall be issued until the shop has been inspected and deemed satisfactory.

~~006.02~~ **005.02** Every barber shop licensed by the Board is subject to entry for inspection at least once during each licensing period, at any time during business hours as defined in these regulations, to be eligible for renewal of certification or registration.

~~006.02A~~ **005.02A Responsibilities of Shop and Booth Rental Permit Holders-Renter.** For purposes of inspection and compliance with laws and regulations, when a barber shop leases booths for practice of barbering by independent contractors or self-employed persons:

~~006.02A1~~ **005.02A1** The shop owner is responsible for compliance with all laws and regulations governing barber shops, except that the ~~holder of a booth rental permit~~ **booth renter** shall meet all sanitary and infection control requirements with respect to the premises covered under the ~~booth permit~~ and for his or her use of the premises consistent with the laws and regulations governing barber shops;

~~006.02A2~~ **005.02A2** It is the responsibility of both the shop owner and ~~permit holder~~ **booth renter** to insure that a key to the booth is readily available to inspectors at any time during business hours as defined in these regulations, whether or not the permit holder is present or the booth is open for operation during such hours.

#### ~~007~~ **006 CLOSING A SHOP**

~~007.01~~ **006.01** Shop owners closing their shop shall inform the Board office within thirty (30) days of closure. If the same owner re-opens the shop while the license is still current, the Board office must be notified prior to the opening.

## **CHAPTER 4 - CHANGE OF OWNERSHIP, BARBER SHOP**

### **001 APPLICATION REQUIRED**

**001.01** Each license issued shall be in effect solely for the owner or owners named therein. Application for a transfer or change of ownership of a barber shop license shall be filed with the Board within thirty (30) days of completion of the business transaction.

**001.02** A fee shall be collected in the amount set by the Board, but no fee shall be collected if the ownership results merely from a current license holder incorporating his or her business. Verification of incorporation shall be submitted with the application if applicable.

### **002 CONTENTS OF APPLICATION**

**002.01** Name of applicant, i.e. the new owner or assignee.

**002.02** Name of current owner.

**002.03** Registration number and name of new managing barber if different than 002.01.

**002.04** Name and number of shop as licensed.

**002.05** New name of shop.

**002.06** Notarized signature and Social Security number of new owner.

**002.07** Notarized signature of current owner releasing the shop license number for transfer, or other legal documents verifying the transfer.

~~**002.08** Identification of all barbers who will provide services in the shop as employees and those who will operate in the shop under a booth rental permit. Applicant shall provide proof of employment for all employees and shall make all rental agreements for those who will operate under booth permits available for inspection upon request.~~

~~**002.09**~~ **002.08** Any other information the Board deems necessary.

### **003 COMPLIANCE**

**003.01** A barber shop must be under the supervision and management of a registered barber. If all or some of the barbers practicing in any barber shop are leasing space under a booth rental permit, the shop owner or a designated registered barber, if different from the shop owner, shall manage the overall shop premises.

**003.02** If a shop changes its designated barber manager, it must notify the Board office within thirty days, giving the name and certificate number of the new designated barber manager.

**003.03** If a shop changes its name, the licensee must notify the Board office within thirty (30) days.