

## County, City, and Village Lottery

### Overview

The [Nebraska County and City Lottery Act](#) (Act) allows a county, city, or village to conduct a lottery for community betterment purposes. The Nebraska Department of Revenue (Department) is charged with the licensing and regulatory oversight of lottery activities. The Act provides minimum guidelines for conduct of the game and specifies the proper record keeping, reporting, and use of the proceeds generated from the lottery activity.

*This guidance document is advisory in nature but is binding on the Department until amended. A guidance document does not include internal procedural documents that only affect the internal operations of the Department and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.*



*This guidance document may change with updated information or added examples. The Department recommends you do not print this document. Instead, sign up for the subscription service at [revenue.nebraska.gov/gaming](http://revenue.nebraska.gov/gaming) to get updates on your topics of interest.*

### Election Requirement – Placing the Lottery on the Ballot

**Procedures.** Prior to conducting a lottery, a county, city, or village must hold an election on the issue. The issue can be placed on the ballot at a regularly-scheduled election, or a special election may be held. The governing board of the county, city, or village may authorize the placement of the lottery issue on the ballot. Typically, public hearings are held on the subject of conducting a lottery prior to placing the matter on a ballot so that residents can voice their opinions. For a regularly-scheduled election, the issue must be certified to the Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election. For a special election, the issue must be certified to the Election Commissioner or County Clerk at least 50 days prior to the election ([Neb. Rev. Stat. § 32-559](#)). A special election may not be held in April, May, June, October, November, or December of an even-numbered year unless held in conjunction with the statewide primary or general election ([Neb. Rev. Stat. § 32-405](#)).

The lottery must be approved by a majority vote. A lottery may be conducted only within the geographical boundaries of the county, city, or village that has approved the activity. A lottery may also be conducted within a licensed racetrack enclosure that abuts the corporate limits of a county, city, or village that has approved a lottery, or is within the zoning jurisdiction of a city, unless the lottery is jointly conducted with another county, city, or village that has also approved a lottery. A county, city, or village must enter into an agreement pursuant to the [Interlocal Cooperation Act](#) to conduct a joint lottery with another county, city, or village. Any agreement to conduct a joint lottery must be approved by the Department.

**Ballot Language.** The following is an example of ballot language which may be used for the lottery ballot question:

SHALL the (insert county, city, or village name) establish and conduct a lottery as permitted under the Nebraska County and City Lottery Act for the purpose of community betterment as defined in the Act?

Yes (For such Lottery)

No (Against such Lottery)

## Choosing the Type of Lottery

The [Act](#) provides for the conduct of the following two types of lotteries:

- 1 A traditional ticket drawing lottery where sequentially-numbered tickets are sold and a drawing is held to determine the winners; and
- 2 Keno, a game in which the participants choose from one to 20 numbers from a pool of 80 numbers, and the winner and the corresponding prize are determined on the basis of correctly matching the numbers selected by the participants to the 20 numbers drawn or generated for each game.

Only one type of lottery may be conducted by a county, city, or village at one time.

**Keno.** There are two authorized methods of winning number selection: a manual or automated ball draw that incorporates the use of numbered keno balls which are agitated in a glass receptacle and chosen one at a time; or a random number generator of winning number selection, where the keno computer system determines the winning numbers. A combination of both methods is permitted; however, the method of winning number selection can only be changed once each business day. A written schedule must be submitted to the Department identifying the days and times each method of winning number selection will be used. No deviations may be made from the daily schedule on file with the Department unless otherwise authorized in writing by the Department based upon a written request from the county, city, or village. In the event of an emergency, an automated ball draw method may be changed to either a random number generator or manual ball draw method provided the emergency situation is reported by the county, city, or village to the Department within 24 hours of its occurrence.

## Implementing Keno

A county, city, or village must decide whether to conduct keno on its own or contract with an individual or business, known as a lottery operator, to run keno on its behalf. Most communities choose to contract with a lottery operator. A lottery operator generally handles everything that needs to be done to start up keno operations. The lottery operator typically has overall responsibility for the daily operation of keno, including hiring and training the lottery workers and selecting the sales outlet locations, with the county's, city's, or village's approval, where keno will be played. The lottery operator and sales outlet locations typically negotiate a contract for the sales outlet to serve as an agent for the lottery operator called a "site agreement." The lottery operator usually obtains the keno equipment, performs the record keeping requirements, and pays prizes to the winners.

## Choosing and Contracting with a Lottery Operator

To qualify as a lottery operator, an individual or sole proprietor must be a resident of Nebraska; a partnership must be organized under the laws of Nebraska; and a limited liability company (LLC) must be formed under the [Nebraska Uniform Limited Liability Company Act](#). A corporation must be incorporated under the [Nebraska Model Business Corporations Act](#).

A county, city, or village may develop contract specifications in a Request for Proposal and invite interested parties to submit proposals or negotiate directly with an individual or business that has expressed an interest in conducting keno.

Once a lottery operator has been selected, the terms and conditions of the lottery operator contract or agreement are negotiated and finalized. The Department has developed a list of provisions that should be considered in a lottery operator contract or agreement. A list of these considerations can be found on the Department's website in [County/City Lottery Operator Contracts: Provisions to Consider](#). The Department also has copies of agreements that have been executed by other counties, cities, and villages that are available upon request. Although it is not required, the county, city, or village may submit a draft copy of its proposed lottery operator agreement to the Department prior to its execution. The Department will review the agreement for compliance with the [Act](#).

## Conflicts of Interest

No member of the governing board or governing official of a county, city, or village conducting a lottery may have any ownership interest, directly or indirectly, in the lottery operator conducting the lottery on behalf of the county, city, or village or in any licensed manufacturer-distributor of lottery equipment. The definition of "connected, interested, or otherwise concerned, directly or indirectly" in [Reg-35-600.0200](#) of the Nebraska County and City Lottery Regulations governs unauthorized ownership interest.

No manufacturer-distributor of lottery equipment or any employee, agent, or spouse of any manufacturer-distributor may play in any lottery conducted under the [Act](#). Additionally, they cannot participate in the conduct or operation of any county, city, or village lottery, except to the exclusive extent of their duties as a licensed manufacturer-distributor.

No sole proprietor, partner in a partnership, member in a LLC, officer or director of a corporation licensed as a lottery operator may be connected with or interested in, directly or indirectly, any licensed manufacturer-distributor of lottery equipment.

## Sales Outlet Locations

A sales outlet location is a location, other than the lottery operator location, where keno wagers are placed. A county, city, or village conducting keno may offer the game at more than one location. There are several types of locations:

- 1 A **lottery operator location** is the principal location of the lottery operator where keno wagers are placed and typically where the winning numbers are selected. A lottery operator location only needs to be licensed as a sales outlet if it does not select the winning numbers.
- 2 An **independent game location** is a location other than the lottery operator location where keno wagers are placed and separate winning number selection is performed. An independent game location must be licensed as a sales outlet.
- 3 A **main location** is a location where keno wagers may be placed, winning number selection is performed, and from which the selected numbers are electronically transmitted to satellite locations. A main location can also be a lottery operator location. If a main location is not a lottery operator location, the main location must be licensed as a sales outlet location.
- 4 A **satellite location** accepts wagers and receives electronically transmitted numbers that have typically been selected at the main location. No winning number selection can be conducted at a satellite location. A satellite location must be licensed as a sales outlet location.

If keno is going to be conducted at a location other than the lottery operator location, the county, city, or village must establish by ordinance or resolution, the qualification standards that must be met by any individual or business seeking to have its location licensed by the Department as an authorized sales outlet location. The county, city, or village must approve each sales outlet location based upon their qualification standards. Each county, city, or village establishes their own sales outlet location standards. The qualification standards must be in writing and submitted to the Department within 30 days of their adoption. In addition, the Department must be notified in writing of each approved sales outlet location within 30 days of its approval.

## Applying for the Lottery License

Once the lottery operator agreement and site agreements, if applicable, have been signed by all parties, the county, city, or village can submit the license applications and required documentation to the Department. License application forms for the county, city, or village, the lottery operator, and the sales outlet locations can be printed from the Department's [website](#). A [Licensing Checklist](#) is also available to assist in submitting all of the required information. To expedite the licensing process, the license applications of the county, city, or village, lottery operator, any sales outlet locations, and all of the required attachments should be submitted at the same time.

## License Application Review Process

The Department will review the license applications submitted to make sure all of the required information has been included. No action will be taken regarding the issuance of the licenses until the background investigations required by the [Act](#) are completed. Lottery operator license applicants and sales outlet location license applicants must have fingerprinting done for criminal background investigation purposes through the Nebraska State Patrol (NSP) and the Federal Bureau of Investigation (FBI). Fingerprinting is not required if a criminal background investigation was performed by the Nebraska Liquor Control Commission in conjunction with an application for a liquor license. In addition to the criminal background investigation conducted by the NSP and the FBI, the Department also conducts a personal and financial background investigation of lottery operator license applicants. The amount of time required to complete this investigation is contingent upon the current workload of the investigative staff and the complexity of the required investigation. For these reasons, **it is not advisable for a county, city, or village to announce or plan a specific start-up date for the lottery until it has received the licenses**. Any provisions in a lottery operator agreement relating to time frames for game start-up should allow for these licensing contingencies.

## License Issuance

After the Department has completed its investigation and has determined that all requirements have been met, the licenses are printed and issued. All of the licenses will be sent to the mailing address which the county, city, or village indicated on its license application. All required licenses must be posted before the lottery can begin operation. The lottery operator's license must be posted at the main location where keno is conducted. Each sales outlet location must post its license. The county, city, or village should keep its license where other keno records are maintained.

## Lottery Worker Licensing

Prior to start-up of the lottery, any individual who will be performing work directly related to the conduct of the lottery, except for an individual whose duties are solely those of a keno writer as defined in [Reg-35-600.02R](#), must apply with the Department for a lottery worker license. Work directly related to the conduct of the lottery means any work involving the actual day-to-day conduct of the lottery including, but not limited to, winning number selection, record keeping, shift checkout, review of keno writer banks, and security. An individual employed by the county, city, or village who will perform any work related to the lottery must also complete and submit a lottery worker license application. Every county, city, or village must have at least one person licensed as a lottery worker to perform the record keeping and authorization functions on behalf of the county, city, or village. The lottery worker license application forms may be printed from [revenue.nebraska.gov/gaming](http://revenue.nebraska.gov/gaming), or copies can be obtained upon request from the Department.

A properly completed and signed application must be filed with the Department prior to the individual beginning his or her duties as a lottery worker. An application is considered filed with the Department upon its receipt, or as of the date the application is postmarked or faxed. The original application must be received by the Department within 10 days of the fax date. The application must be signed by a governing official or the county's, city's, or village's authorized representative as defined in [Reg-35-600.02M](#) as evidence of their approval to submit the application to the Department. If the application is approved by an

authorized representative, a copy of the approved application must be filed with the county, city, or village. The applicant will be granted probationary license status, for up to 120 days after the license application has been filed. If the Department has not initiated proceedings to deny the license application within the 120-day probationary period, the Department is required to grant the applicant a regular license. A printed license is not issued. Individuals who perform duties for more than one county, city, or village must obtain a license for each community they perform work for.

## **Keno Managers**

Each sales outlet location, other than a satellite location, must have a person licensed as a Keno Manager. In the case of a sales outlet location which is an independent game location, an owner or officer of the sales outlet location who has been fingerprinted through the Nebraska Liquor Control Commission may be designated as the keno manager upon filing a [Nebraska Schedule III - County/City Lottery Worker Application, Form 50G](#).

## **Lottery Equipment**

All lottery equipment must be obtained by the county, city, village, or lottery operator, from a licensed manufacturer-distributor of lottery equipment. A manufacturer-distributor of lottery equipment must apply for and obtain a license from the Department prior to marketing, selling, or distributing lottery equipment in Nebraska.

Lottery equipment used in and essential to the conduct of the lottery must be approved by the Department. This includes, but is not limited to, keno balls, keno ball selection devices, including electrically operated blower machines, automated ball draw systems, and other electronic selection devices, random number generators, and keno systems. It is the responsibility of the licensed manufacturer-distributor of the equipment to receive approval for the equipment prior to marketing it in Nebraska. In addition, the [Nebraska County and City Lottery Regulations](#) require the use of camera surveillance equipment in all manual ball draw operations to record the winning number selection process for subsequent use in winner verifications. The camera surveillance system and video or digital recording devices and monitors **must** be inspected and approved by the Department before keno can begin operation.

Items that do not directly affect the outcome of the game are not subject to approval by the Department. This includes display boards and monitors, rabbit ears used in conjunction with electrically operated blower machines, magnetic, electronic, and digital storage media, and other supply items.

## **Hours of Operation**

A county, city, or village lottery cannot be conducted between the hours of 1:00 a.m. and 6:00 a.m. or between 2:00 a.m. and 6:00 a.m., if a city, county, or village has authorized a later closing time for the sale of alcoholic liquor according to [Neb. Rev. Stat. § 53-179](#). This includes, but is not limited to, selling, paying, or voiding tickets, selecting winning numbers, or closing the game. If a city, county, or village allows alcohol to be sold later than 1:00 a.m., then the lottery cannot be conducted between the established closing time and 6:00 a.m. ([Neb. Rev. Stat. § 53-179](#)).

## **Participation and Age Restrictions**

An individual must be at least 19 years of age to play or participate in any way in a county, city, or village lottery.

A county, city, or village must establish by ordinance or resolution the limitations, if any, on the playing of the lottery by any member of the governing board, a governing official, or the immediate family of the member or official.

A county, city, or village may prohibit, by ordinance or resolution, an owner or officer of an authorized sales outlet location from playing the lottery. The owners and officers of a lottery operator with whom the county, city, or village contracts with to conduct its lottery are prohibited from playing that lottery.

Employees or agents of a county, city, village, lottery operator, or authorized sales outlet location, including lottery workers and keno writers are prohibited from playing the lottery while they are on duty. A county, city, or village may prohibit, by ordinance or resolution, an owner or officer of an authorized sales outlet location from playing the lottery. Copies of any ordinances or resolutions regarding participation prohibitions must be submitted to the Department.

## **Lottery Tickets**

The purchase price of a ticket to participate in a ticket drawing lottery cannot exceed \$100. The maximum amount a player can wager on a single game of keno is \$100. However, a multirace ticket covering multiple games may be purchased for an amount over \$100, if the wager for each game included in the ticket does not exceed \$100.

Each lottery ticket in a ticket drawing, and each outside keno ticket must contain the name of the county, city, or village conducting the lottery. Additional ticket requirements are found in the [Nebraska County and City Lottery Regulations](#).

## **Prize Payout Percentages**

At least 65% of the gross proceeds of the lottery activity must be returned to the players in prizes. In the case of keno, the 65% prize payout requirement must be realized during the annual period from July 1 to June 30.

## **Allowable Expense Limitation**

A county, city, or village conducting a lottery cannot use more than 14% of its lottery gross proceeds for allowable expenses. Compliance with the 14% expense limitation is based on the lottery expenses incurred by a county, city, or village during an annual period corresponding to the fiscal year of the county, city, or village. Allowable expenses are defined and specified by both the [Act](#) and the [Nebraska County and City Lottery Regulations](#).

License fees paid to the Department and audit or legal expenses, including the cost of fingerprinting any individual required to be licensed which is incurred by a county, city, or village directly related to the operation of the lottery are considered expenses; however, they are not required to be included in determining compliance with the 14% limitation. While license fees are entirely excluded from the 14% limitation, audit and legal expenses are limited to 1% of the lottery gross proceeds or \$5,000, whichever is greater, during the annual period from July 1 to June 30. Prizes and the state lottery tax of 2% are also excluded from the 14% limitation. One of the expenses that must be applied against the limitation is the amount of salary, commission, or fee that is paid to a lottery operator to conduct the lottery on behalf of the county, city, or village. Any federal excise tax imposed on the gross proceeds of the lottery must also be applied against the 14% expense limitation, if paid for by the county, city, or village.

## **Unclaimed Lottery Prizes**

A statement indicating any time restriction for redeeming a winning ticket must be visibly posted at each location where keno is played or printed on the ticket or schedule of prize payouts.

Any ticket that goes unclaimed after the posted period has elapsed is an unclaimed lottery prize. All unclaimed lottery prizes are the property of the county, city, or village on whose behalf the lottery is conducted. Unclaimed lottery prizes are exempt from the [Uniform Disposition of Unclaimed Property Act](#).

## **Record Keeping and Audit**

The gross proceeds of the lottery, less prizes paid in cash, must be deposited in a separate bank account of the county, city, village, lottery operator, or sales outlet location. All records of the lottery activity must be maintained and disposed of in accordance with the records retention and disposition schedule for Nebraska County/City Lottery Records, [Schedule 59](#), published by the Nebraska Records Management Division. The Department, any law enforcement agency, or any other government agency may inspect the records relating to the lottery at any time.

On an annual basis, coinciding with the fiscal year of the county, city, or village, keno compliance procedures prescribed by the Department must be conducted by the county, city, or village or by a person which has contracted with the county, city, or village. A report outlining the findings from the performance of the compliance procedures must be submitted to the Department within 90 days of the end of the fiscal year of the county, city, or village.

## Lottery Tax and Reporting Requirements

A state lottery tax of 2% of the gross proceeds of the lottery is due to the Department on a quarterly basis. The tax must be remitted on [Nebraska County/City Lottery Tax Return, Form 51C](#), with accompanying [Nebraska Schedule I - County/City Lottery Activity Report, Form 51C](#). The tax return and schedule are due by the 30th of the month following the end of each calendar quarter. The county, city, or village is also required to complete and submit with the tax return a County/City Lottery Activity Report, detailing the distribution of the gross proceeds of the lottery for the reporting quarter. These forms are supplied by the Department.

Each county, city, or village must also file with the Department an annual report of its keno lottery activity. The report must be on [Nebraska County/City Lottery Annual Report, Form 35K](#), and cover the fiscal year of the county, city, or village. The report must be filed within 90 days of the end of the reporting period.

Keno lottery winnings of \$1,500 or more (reduced by the wager) require the payer of the winnings to complete and file a [Certain Gambling Winnings, Form W-2G](#), with the IRS. In addition, a federal excise tax on wagering may apply to a portion of the lottery gross proceeds. For more information on these requirements, contact the IRS.

## Inactive and Discontinued Lotteries

If a lottery authorized by an election held on or after October 1, 1989, is not in operation for any ten consecutive years, the lottery is no longer authorized and cannot be reactivated without its approval in another election.

An existing lottery may also be discontinued if the question of whether to continue the lottery is placed, by governing board or petition, on the ballot of a regularly-scheduled election or special election, and a majority of those voting on the issue vote to discontinue the lottery. An election to discontinue a lottery cannot be held within two years of the election which originally authorized the lottery.

If a lottery is discontinued in this manner, another election to approve a subsequent lottery activity cannot be held within two years of the election which discontinued the previous lottery. A lottery may also be effectively discontinued if the Department suspends, cancels, revokes, or does not renew a city's, county's, or village's license for cause. Cause to take any of these actions includes not complying with the statutes, rules, and regulations of the [Act](#).

[revenue.nebraska.gov/gaming](http://revenue.nebraska.gov/gaming)

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