

This rule was filed as 15 NMAC 10.3.2.

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 10 ALCOHOLIC BEVERAGES GENERAL PROVISIONS
PART 32 PREMISES - LOCATION AND DESCRIPTION OF LICENSED PREMISES

15.10.32.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Alcohol and Gaming Division.
[3/31/97; Recompiled 12/31/01]

15.10.32.2 SCOPE: These regulations apply to all licensees and applicants for licensure under the New Mexico Liquor Control Act.
[3/31/97; Recompiled 12/31/01]

15.10.32.3 AUTHORITY: Sections 9-16-6(D) and 9-16-6(B)(2) NMSA 1978 of the Regulation and Licensing Department Act authorize the superintendent, or the superintendent's designee, to make and adopt such rules and regulations as necessary to carry out the duties of the department. Section 60-3A-7 NMSA 1978 gives the regulation and licensing department authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.10.32.4 DURATION: Permanent.
[3/31/97; Recompiled 12/31/01]

15.10.32.5 EFFECTIVE DATE: March 31, 1997, unless a later date is cited at the end of a section or paragraph. Repromulgated and reformatted for New Mexico Administrative Code (NMAC) effective March 31, 1997. Certain paragraphs within this subpart remain unchanged from the following rules: AGD Regulation 6B-10(A), Location Near Church, School or Military Installation, filed 9/25/90.
[3/31/97; 7/15/99; Recompiled 12/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

15.10.32.6 OBJECTIVE: These regulations are intended to establish standards for the location and description of areas identified as licensed premises.
[3/31/97; Recompiled 12/31/01]

15.10.32.7 DEFINITIONS: Unless otherwise defined in 15 NMAC 10.1.1 [now 15.10.2 NMAC], terms used in these regulations have the same meanings as set forth in the Liquor Control Act.
[Paragraph 15 NMAC 10.3.2.7.1 has been moved and renumbered to 15 NMAC 10.1.1.7.23 [now Subsection W of 15.10.2.7 NMAC]
[3/31/97; 7/15/99 - Recompiled 12/31/01]

15.10.32.8 LOCATION NEAR CHURCH, SCHOOL OR MILITARY INSTALLATION: All measurements for the purpose of determining the location of a licensed premises in relation to churches, schools or military installations shall be the shortest direct line measurement between the actual limits of the real property of the church, school or military installation in which there is regularly conducted church services, educational functions or military troops housed, and the licensed premises where alcoholic beverages are proposed to be sold. If the proposed licensed premises is within 400 feet of a church or school, and the applicant does not admit the proposed licensed premises is within 300 feet of a church or school, the application must be accompanied by a certified report of a registered engineer or duly licensed surveyor.
[3/31/97; Recompiled 12/31/01]

15.10.32.9 PREMISES WHERE ALCOHOL WAS SOLD PRIOR TO 1981:
A. For purposes of transfer and issuance of liquor licenses, a location where alcoholic beverages were sold prior to July 1, 1981, is a location that was licensed for the sale of alcoholic beverages by the department

prior to July 1, 1981. For purposes of special dispenser's permits, a location where alcoholic beverages were sold prior to July 1, 1981, includes church and school property where alcoholic beverages were traditionally sold prior to July 1, 1981, at events, such as annual church fiestas or school fundraisers, even if the premises were not licensed by the department prior to July 1, 1981.

B. If an applicant seeks to have a location approved as a licensed premises where alcoholic beverages were sold prior to July 1, 1981, and if alcoholic beverages have not been sold on the previously licensed premises for a period of 12 months or more, the applicant has the burden of showing the church or school has not detrimentally relied on the lack of sales or closing of the previously licensed premises. An applicant for a special dispenser's permit on church or school property has the burden of establishing that sales of alcoholic beverages occurred on the church or school property on an annual or other regular basis prior to July 1, 1981.
[3/31/97; Recompiled 12/31/01]

15.10.32.10 LICENSED PREMISES OF HOTEL, RACETRACK, CLUB OR RESTAURANT: Nothing in these regulations shall prohibit the licensure of the entire premises of any "hotel", "racetrack" or "club", as defined in the Liquor Control Act, or any restaurant with a dispenser's license, when any of these types of licenses are operated by the licensee who profits directly and exclusively from the operation of the license.
[3/31/97; Recompiled 12/31/01]

15.10.32.11 GOLF COURSE AS LICENSED PREMISES: Golf courses may be licensed in their entirety subject to the following conditions:

A. an accurate description of the golf course with the proposed controlled access areas clearly marked must be filed with the department;

B. the sale, service and consumption of alcoholic beverages on the golf course is limited to controlled access areas,

C. if roads are included in controlled access areas, the boundaries of golf cart and pedestrian crossings must be clearly marked by permanent marking on the surface of the roads by white or yellow reflective paint or striping material similar to pedestrian crossing markings found on city and state streets and roads.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.10.32.12 [RESERVED]

[3/31/97; 8/2/98; 1/30/98; 7/15/99; Recompiled 12/31/01]

15.10.32.13 CHANGE OR EXPANSION OF LICENSED PREMISES: A licensee may not change or expand the licensed premises without the prior written approval of the director. Applications to change or expand the licensed premises shall be submitted along with the required documentation and application fee of \$75. If the change or expansion of the licensed premises is twenty-five percent (25%) or more of the total existing square footage of the licensed premises, the director may require the licensee to file an application for transfer of location.
[3/31/97; 7/15/99; Recompiled 12/31/01]

15.10.32.14 OUTDOOR LICENSED PREMISES: Licensed premises that are outdoors must have clearly defined boundaries that physically separate the licensed premises from the surrounding area.
[7/15/99; Recompiled 12/31/01]

HISTORY OF 15.10.32 NMAC:

Pre-NMAC Regulatory Filing History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ABC Regulation No. 6B-2.(D), Operation of Licenses on Designated Premises, Interpreting and Exemplifying Section 60-6B-2 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD 6B-2(C), Operation of Licensed Premises, filed 9/25/90;

ABC Regulation No. 6B-10.(A), Location Near Church, School, or Military Installation Regulation 6B-10.(A), Interpreting and Exemplifying Section 60-6B-10 NMSA 1978 (1981-1984 Supp.), filed 11/4/85;

AGD 6B-10(A), Location Near Church, School, or Military Installation, filed 9/25/90;

ABC Regulation No. 6B-12(G)(A), Location of Licensed Premises Regulation 6B-12(G)(A), Interpreting and Exemplifying Section 60-6B-12(G) NMSA 1978 (1981 and 1984 Supp.), filed 12/4/84; and

AGD 6B-12, Location of Licensed Premises, filed 9/25/90.

History of Repealed Material:

15 NMAC 10.3.2.12 Drive-up Windows, Walk-up Windows, Repealed 7/15/99.