

**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, Alcoholic Beverage Control Division.  
[15.10.32.1 NMAC - Rp, 15 NMAC 10.3.2.1, 4/25/2017; A, 9/28/2021]

**15.10.32.2        SCOPE:** These rules apply to all licensees and applicants for licensure under the act.  
[15.10.32.2 NMAC - Rp, 15 NMAC 10.3.2.2, 4/25/2017]

**15.10.32.3        AUTHORITY:** Section 60-3A-10 NMSA 1978 of the act authorizes the director to make and adopt such rules as necessary to carry out the duties of the division.  
[15.10.32.3 NMAC - Rp, 15 NMAC 10.3.2.3, 4/25/2017]

**15.10.32.4        DURATION:** Permanent.  
[15.10.32.4 NMAC - Rp, 15 NMAC 10.3.2.4, 4/25/2017]

**15.10.32.5        EFFECTIVE DATE:** April 25, 2017, unless a later date is cited at the end of a section.  
[15.10.32.5 NMAC - Rp, 15 NMAC 10.3.2.5, 4/25/2017]

**15.10.32.6        OBJECTIVE:** These rules are intended to establish standards for the location and description of areas identified as licensed premises.  
[15.10.32.6 NMAC - Rp, 15 NMAC 10.3.2.6, 4/25/2017]

**15.10.32.7        DEFINITIONS:** Unless otherwise defined in 15.10.2 NMAC, terms used in these rules have the same meanings as set forth in the act.

**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 or schools shall be the shortest direct line measurement between the actual limits of the real property of the church or school in which there is regularly conducted church services or educational functions, and the controlled access area of 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. A license may be granted for a proposed location if a person has obtained a waiver from a local option district governing body for the proposed location.  
[15.10.32.8 NMAC - Rp, 15 NMAC 10.3.2.8, 4/25/2017; A, 9/28/2021]

**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 division 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 division 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.  
[15.10.32.9 NMAC - Rp, 15 NMAC 10.3.2.9, 4/25/2017]

**15.10.32.10        LICENSED PREMISES AND CONTROLLED ACCESS AREAS:**

**A.** Nothing in these rules shall prohibit the licensure of the entire premises, including more than one structure, of the controlled access areas of the grounds of any hotel, golf course, ski area, racetrack, distillery, brewery, or vineyard of a winery, as defined in the act, or any restaurant, identified in Subsection O of Section 60-3A-3 NMSA 1978, when any of these types of licenses are operated by the licensee who profits directly and exclusively from the operation of the license;

**B.** An accurate description of the licensed premises with the proposed controlled access areas clearly marked, must be filed with the division;

**C.** The sale, service and consumption of alcoholic beverages is limited to controlled access areas;

**D.** Roads are not to be included in controlled access areas, except within golf courses, in which the boundaries of golf cart and pedestrian crossings are clearly marked by permanent marking on the surface of the roads by white or yellow reflective painting or striping material similar to pedestrian crossing markings found on city and state streets and roads; and

**E.** Parking lots and fuel pump stations, unless granted written approval by the division, may not be included in controlled access areas.

**F.** A licensee may obtain an exception to these requirements with written approval issued by the Division.

[15.10.32.10 NMAC - Rp, 15 NMAC 10.3.2.10, 4/25/2017; A, 9/28/2021]

**15.10.32.11 [RESERVED]**

[15.10.32.11 NMAC - Rp, 15 NMAC 10.3.2.11, 4/25/2017; Repealed 9/28/2021]

**15.10.32.12 CHANGE OR EXPANSION OF LICENSED PREMISES:** Floor plans that accurately reflect the controlled access areas of a licensee's licensed premises must be kept current by filing an application to change a floor plan within 30 days of a change, and to expand a floor plan by filing an application prior to the expansion, or upon request by the director. If the total square footage of the controlled access area of the licensed premise will increase by more than twenty-five percent pursuant to the floor plan change, the licensee may be required to file an application for change of location on a form approved by the division.

[15.10.32.12 NMAC - Rp, 15 NMAC 10.3.2.13, 4/25/2017; A, 9/28/2021]

**15.10.32.13 [RESERVED]**

[15.10.32.13 NMAC - Rp, 15 NMAC 10.3.2.14, 4/25/2017; Repealed 9/28/2021]

**15.10.32.14 OUTDOOR CONTROLLED ACCESS AREAS:** Controlled access areas of a licensed premises that are outdoors must be enclosed by a continuous physical barrier of sufficient height in order to physically separate the controlled access area from the surrounding area. The division may allow exceptions to this requirement upon written request by a licensee.

[15.10.32.14 NMAC - N, 9/28/2021]

**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 11/04/1985.

AGD 6B-2(C), Operation of Licensed Premises, filed 09/25/1990.

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 11/04/1985.

AGD 6B-10(A), Location Near Church, School, or Military Installation, filed 09/25/1990.

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 12/04/1984.

AGD 6B-12, Location of Licensed Premises, filed 09/25/1990.

**History of Repealed Material:**

15 NMAC 10.3.2.12 Drive-up Windows, Walk-up Windows, Repealed 7/15/1999.

15 NMAC 10.3.2, Premises - Location and Description of Licensed Premises, filed 03/14/1997 - Repealed effective 4/25/2017.

**NMAC History:**

15 NMAC 10.3.2, Premises - Location and Description of Licensed Premises (filed 3/14/1997) was replaced by 15.10.32 NMAC, Premises - Location and Description of Licensed Premises, effective 4/25/2017.