

**TITLE 18: TRANSPORTATION AND HIGHWAYS**  
**CHAPTER 19: MOTOR VEHICLE PROCEDURES, LICENSES, PERMITS**  
**PART 4: LICENSING**

**18.19.4.1 ISSUING AGENCY:** Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630.  
[9/14/1996; 18.19.4.1 NMAC - Rn, 18 NMAC 19.4.1, 9/14/2000]

**18.19.4.2 SCOPE:** This part applies to all dealers, wreckers, wholesalers and distributors of motor vehicles and title service companies.  
[9/14/1996, 11/30/1999; 18.19.4.2 NMAC - Rn, 18 NMAC 19.4.2, 9/14/2000]

**18.19.4.3 STATUTORY AUTHORITY:** Section 9-11-6.2 NMSA 1978.  
[9/14/1996; 18.19.4.3 NMAC - Rn, 18 NMAC 19.4.3, 9/14/2000]

**18.19.4.4 DURATION:** Permanent.  
[9/14/1996; 18.19.4.4 NMAC - Rn, 18 NMAC 19.4.4, 9/14/2000]

**18.19.4.5 EFFECTIVE DATE:** September 14, 1996, unless a later date is cited at the end of a section, in which case the later date is the effective date.  
[9/14/1996; 18.19.4.5 NMAC - Rn & A, 18 NMAC 19.4.5, 9/14/2000]

**18.19.4.6 OBJECTIVE:** The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Motor Vehicle Code.  
[9/14/1996; 18.19.4.6 NMAC - Rn, 18 NMAC 19.4.6, 9/14/2000]

**18.19.4.7 DEFINITIONS:** As used in 18.19.4 NMAC,  
**A.** "appellant" means the applicant for a license which the department refuses to issue or the person to whom a license has been issued which license the department proposes to cancel or suspend;  
**B.** "license", unmodified, means a license authorized pursuant to Sections 66-4-1, 66-4-1.1 or 66-4-2.1 NMSA 1978;  
**C.** "licensee" means a person to whom a license has been issued for conducting a type of business described in Sections 66-4-1 or 66-4-1.1 NMSA 1978; and  
**D.** "wrecker" means an "auto recycler" as that term is defined in Section 66-1-4.1 NMSA 1978.  
[9/14/1996; - Rn & A, 18 NMAC 19.4.10.1, 11/30/1999; 11/30/1999; 18.19.4.7 NMAC - Rn & A, 18 NMAC 19.4.7, 9/14/2000; A, 9/15/2006]

**18.19.4.8 APPLICATION FOR LICENSE - SURETY BONDS:**  
**A.** Each applicant for a license shall apply to the dealer section of the motor vehicle division of the department on a form provided by the department.  
**B.** Each application shall be accompanied by an original corporate surety bond that complies with the provisions of Section 66-4-7 NMSA 1978. The corporate surety bond must remain in effect throughout the period for which the license is issued. The corporate surety bond must be issued in the same business name and trade name, if any, shown on the application for license.  
[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.8 NMAC - Rn & A, 18 NMAC 19.4.8.1, 9/14/2000]

**18.19.4.9 APPLICATIONS FOR SUPPLEMENTAL LICENSE:** Any dealer or wrecker who desires to open any additional place of business shall:  
**A.** at least fourteen days prior to the sale of any vehicles at the additional place of business, submit an application for a supplemental license to the dealer section of the motor vehicle division of the department on a form provided by the department;  
**B.** submit either an original rider to the dealer or wrecker's existing corporate surety bond or an original corporate surety bond in compliance with the provisions of Section 66-4-7 NMSA 1978 to cover the proposed additional place of business; photocopies or other facsimiles are not acceptable; only original documents will be considered;  
**C.** submit proof satisfactory to the department that the dealer or wrecker has or will have exclusive

control over the location of the proposed additional place of business; proof may be submitted in the form of, but is not limited to, an executed lease, an executed contract for purchase of the location or a document such as a deed or, in the case of a temporary place of business, a letter of permission from the land owner or permanent tenant; and

**D.** comply with Section 66-4-2B(2) NMSA 1978 and, with respect to temporary places of business, comply with 18.19.4.18 NMAC or, with respect to other places of business, provide the necessary documentation to establish that the proposed additional place of business meets the requirements of an established place of business, except that the books and records of an additional place of business need not be kept there.

[7/19/1994, 9/14/1996; 18.19.4.9 NMAC - Rn & A, 18 NMAC 19.4.8.2, 9/14/2000; A, 10/13/2000]

**18.19.4.10 INSPECTION OF PREMISES BY DEPARTMENT:**

**A.** The secretary, or the secretary's authorized representative, shall inspect each proposed new business location of a dealer or wrecker for compliance with the provisions of the Motor Vehicle Code and must approve the location before a dealer or wrecker license is issued. Inspection of each proposed new business location may be accomplished at the discretion of the secretary, or the secretary's authorized representative, by either:

- (1) a physical inspection of the proposed location, or
- (2) an inspection of plans and architectural or schematic drawings or photographs.

**B.** The secretary, or the secretary's authorized representative, may inspect or reinspect a business location of any licensee at any time between 8:00 a.m. and 5:00 p.m., Monday through Saturday, holidays excepted, for the purpose of determining compliance with the provisions of the Motor Vehicle Code.

**C.** The secretary may authorize any employee of the department, any employee of the department of public safety, or any employee of the manufactured housing division of the regulation and licensing department to perform any initial or subsequent inspection.

**D.** Any violation found during a subsequent inspection shall be reported to the dealer section of the motor vehicle division of the department.

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.10 NMAC - Rn, 18 NMAC 19.4.9.1, 9/14/2000]

**18.19.4.11 COMPLIANCE WITH LOCAL ZONING REQUIREMENTS:** A representative of the municipality or county in which the licensee proposes a business location must certify on the inspection form that the place of business is in compliance with all local zoning requirements.

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.11 NMAC - Rn, 18 NMAC 19.4.9.2, 9/14/2000]

**18.19.4.12 LICENSE TO BE DISPLAYED:**

**A.** A dealer or wrecker shall display the business license issued by the department in a conspicuous place at the dealer's or wrecker's established place of business at all times.

**B.** A dealer or wrecker shall display the supplemental business license issued by the department in a conspicuous place at the dealer's or wrecker's additional place of business at all times.

[7/19/1994, 9/14/1996; 18.19.4.12 NMAC - Rn, 18 NMAC 19.4.9.3, 9/14/2000]

**18.19.4.13 SUPPLEMENTAL LICENSE REQUIREMENTS - COMPLIANCE WITH SECTION 66-4-2B(2) NMSA 1978:**

**A.** Any dealer or wrecker applying for a supplemental license to conduct business at a location that is not an established place of business must comply with the provisions of Paragraph (2) of Subsection B of Section 66-4-2 NMSA 1978.

**B.** Compliance with Section 66-4-2B(2) NMSA 1978 shall be established by providing to the department:

- (1) a copy of the letter sent to a majority of the dealers in the county of the proposed additional place of business;
- (2) verification that the letter was sent first class mail, postage prepaid, and the date of the mailing; and
- (3) a list of the dealers to whom it was sent.

**C.** The letter to a majority of the dealers in the county shall state, at a minimum, that the:

- (1) sale is offered at all times during which the applying dealer will be offering vehicles for sale; and
- (2) the required payment, if any, will not be greater than a fair share of the actual expenses incurred.

[7/19/1994, 9/14/1996; 18.19.4.13 NMAC - Rn & A, 18 NMAC 19.4.9.4, 9/14/2000]

**18.19.4.14 APPLICATION OF CRIMINAL OFFENDER EMPLOYMENT ACT:**

**A.** For the purposes of Section 66-4-4 NMSA 1978, only those felonies related to the use, sale or exchange of a motor vehicle will be considered by the department for the purposes of granting, renewing, revoking or suspending a license.

**B.** A conviction of a corporate officer, general or limited partner or sole proprietor for a felony related to the use, sale or exchange of a motor vehicle is a disqualifying condition under Section 66-4-4 NMSA 1978.

**C.** The conviction of a corporate officer, general or limited partner or sole proprietor for a felony related to the use, sale or exchange of a motor vehicle subsequent to the issuance of a license by the department is a disqualifying condition under Section 66-4-4 NMSA 1978.

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.14 NMAC - Rn & A, 18 NMAC 19.4.11, 9/14/2000]

**18.19.4.15 INSPECTION DURING REASONABLE BUSINESS HOURS:** All records of a licensee required to be maintained under the provisions of Section 66-4-5 NMSA 1978 shall be available for inspection at any time between 8:00 am and 5:00 pm on any business day, exclusive of Sundays and holidays by any peace officer or by the secretary or the secretary's authorized representative.

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.15 NMAC - Rn & A, 18 NMAC 19.4.12, 9/14/2000]

**18.19.4.16 VALID CORPORATE SURETY BOND REQUIRED AS A CONDITION OF LICENSE:**

**A.** The corporate surety bond required by Section 66-4-7 NMSA 1978 shall be continuous in form and must remain in effect throughout the period for which the license is issued.

**B.** If the corporate surety bond is allowed to lapse or is otherwise rendered ineffective or invalid, the department may demand, by certified mail or in person, that a new, original corporate surety bond be provided to the department. If the licensee does not comply within five (5) business days, the license issued by the department is deemed invalid and the department may institute proceedings to enjoin that licensee from engaging in business in New Mexico in accordance with the provisions of Section 66-4-1 NMSA 1978.

[7/19/1994, 9/14/1996; 18.19.4.16 NMAC - Rn & A, 18 NMAC 19.4.14.1, 9/14/2000]

**18.19.4.17 SUBSTITUTION OF BOND AT REQUEST OF CORPORATE SURETY:** Any corporate surety on any bond furnished by any licensee as required by Section 66-4-7 NMSA 1978 shall be released and discharged from any and all liability accruing on the bond after the expiration of ninety days from the date on which the corporate surety files with the department a written request to be released and discharged. Such a request shall not operate to release or discharge the corporate surety from any liability already accrued or that shall accrue before the expiration of the ninety day period, unless a new, original corporate surety bond is filed during the ninety day period, in which case the previous bond may be canceled as of the effective date of the new bond. On receipt of notice of such a request, the department shall promptly notify the licensee who furnished the bond that the licensee shall, on or before the expiration of the ninety day period, file with the department a new, original corporate surety bond with a surety satisfactory to the department in the amount and form required by Section 66-4-7 NMSA 1978.

[7/19/1994, 9/14/1996; 18.19.4.17 NMAC - Rn & A, 18 NMAC 19.4.14.2, 9/14/2000]

**18.19.4.18 ADDITIONAL REQUIREMENTS FOR TEMPORARY PLACE OF BUSINESS:** In addition to the requirements set forth in 18.19.4.9 NMAC, the following requirements must also be met when a dealer's application for a supplemental license relates to a temporary place of business:

**A.** the dealer provides to the motor vehicle division evidence acceptable to the department that it has made the offer required by Paragraph (2) of Subsection B of Section 66-4-2 NMSA 1978 and is not conditioning the offer upon the payment of any fee greater than a fair share of the actual expenses; a "fair share" shall not be greater than the total allowable expenses divided by the number of participating dealers; such evidence shall include a list of all the dealers in the county, a list of those to whom the invitation has been extended and a copy of the invitation;

**B.** a statement signed by the appropriate official that the sale of motor vehicles at the site and all other uses of the site are in compliance with applicable zoning and planning requirements; and

**C.** certification by the dealer that all of the information tendered is true and correct and acknowledging that providing untrue or incomplete information could lead to a loss of the dealer's license.

[18.19.4.18 NMAC - N, 10/13/2000]

**18.19.4.19 through 18.19.4.29 [RESERVED]**

**18.19.4.30 TIMELY RENEWAL OF ANNUAL LICENSE:**

**A.** The failure by a licensee to timely renew the license issued by this department may be considered reasonable cause for this department to refuse to renew the license.

**B.** For the purposes of 18.19.4.30 NMAC, an application for renewal, accompanied by the proper fee and the required original corporate surety bond, must be received by the department on or before the expiration of the current license to be considered timely.

[7/19/1994, 9/14/1996; 18.19.4.30 NMAC - Rn & A, 18 NMAC 19.4.10.2, 9/14/2000]

**18.19.4.31 CANCELLATION, SUSPENSION, REVOCATION, OR REFUSAL TO GRANT OR CONTINUE A LICENSE:**

**A.** The department may refuse to grant a license to any person if the person does not meet the requirements of the Motor Vehicle Code, if the person is a delinquent taxpayer pursuant to Section 7-1-16 NMSA 1978 or has not filed all state tax returns the person is required to file. The person may request a hearing on the refusal.

**B.** The department may also cancel, suspend, revoke or refuse to continue the license of any licensee if the licensee does not meet the requirements of the Motor Vehicle Code, if the licensee is a delinquent taxpayer pursuant to Section 7-1-16 NMSA 1978 or if the person has not filed all state tax returns the person is required to file. If the department cancels, suspends, revokes or refuses to continue the license of any licensee, the license may be reinstated on a showing by the licensee that the licensee is in compliance with the requirements of the Motor Vehicle Code and, if applicable, the person is no longer a delinquent taxpayer and has filed all required returns.

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.31 NMAC - Rn & A, 18 NMAC 19.4.10.3, 9/14/2000]

**18.19.4.32 [RESERVED]**

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.32 NMAC - Rn, 18 NMAC 19.4.10.4, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.33 [RESERVED]**

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.33 NMAC - Rn, 18 NMAC 19.4.10.5, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.34 [RESERVED]**

[7/19/1994, 9/14/1996; 18.19.4.34 NMAC - Rn, 18 NMAC 19.4.10.6, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.35 [RESERVED]**

[7/19/1994, 9/14/1996; 18.19.4.35 NMAC - Rn, 18 NMAC 19.4.10.7, 9/14/2000; Repealed, 5/24/2022]

**18.19.4.36 [RESERVED]**

[7/19/1994, 9/14/1996; 18.19.4.36 NMAC - Rn, 18 NMAC 19.4.10.8, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.37 [RESERVED]**

[7/19/1994, 9/14/1996; 18.19.4.37 NMAC - Rn, 18 NMAC 19.4.10.9, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.38 [RESERVED]**

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.38 NMAC - Rn & A, 18 NMAC 19.4.10.10, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.39 [RESERVED]**

[7/19/1994, 9/14/1996; 18.19.4.39 NMAC - Rn, 18 NMAC 19.4.10.11, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.40 [RESERVED]**

[7/19/1994, 9/14/1996, 11/30/1999; 18.19.4.40 NMAC - Rn, 18 NMAC 19.4.10.12, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.41 [RESERVED]**

[7/19/1994, 9/14/1996; 18.19.4.41 NMAC - Rn, 18 NMAC 19.4.10.13, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.42 [RESERVED]**

[7/19/1994, 9/14/1996; 18.19.4.42 NMAC - Rn, 18 NMAC 19.4.10.14, 9/14/2000, Repealed, 5/24/2022]

**18.19.4.43 through 18.19.4.49 [RESERVED]**

**18.19.4.50 ESTABLISHED PLACE OF BUSINESS - GENERAL:**

**A.** An established place of business must be devoted exclusively to the business for which the dealer is licensed and to any business incidental to the dealer's principal activity. Incidental business may include, but is not limited to, sales of automobile liability insurance, maintenance contracts, repairs, motor vehicle parts and after market accessories.

**B.** An established place of business must be located in an enclosed building on a permanent foundation that meets all local zoning requirements.

**C.** If a location proposed as an established place of business is to be leased, the lease shall be for a term of not less than six months. Lease provisions which allow for cancellation of the remaining lease term by either the lessor or lessee at his sole discretion shall be deemed to create a term of less than six months. Any lease which the department finds to be a sham or artificial transaction shall be deemed to create a term of less than six months.

[7/19/1994, 9/14/1996; 18.19.4.50 NMAC - Rn, 18 NMAC 19.4.13.1, 9/14/2000]

**18.19.4.51 ESTABLISHED PLACE OF BUSINESS - COMMON AREAS OR AREAS OPEN TO THE GENERAL PUBLIC NOT QUALIFIED:**

**A.** An established place of business can not be located in common areas, such as at a shopping mall, or in areas open to the general public, such as parking lots for buildings not devoted exclusively to the business of the dealer. Absent clearly convincing evidence to the contrary, such location shall be presumed not to be devoted exclusively to the business for which the dealer is licensed. The burden of proof shall be on the dealer to show that the common area or other area open to the general public is physically restricted to the exclusive use of the dealership. This burden may be met by submitting evidence of physical barriers, such as walls or permanent fences, or other means which preclude all uses of the area other than for those associated with the dealer's business.

**B.** If the proposed established place of business is located within a portion of a larger structure, such as a shopping mall, which also contains other types of businesses, the established place of business must be within a permanently enclosed area which forms part of the larger structure. While the established place of business may be one of the tenants in the mall, the established place of business can not be located in or on the common areas of the mall. The established place of business must meet all the other requirements of Section 66-1-4.5(B) NMSA 1978.

[7/19/1994, 9/14/1996; 18.19.4.51 NMAC - Rn & A, 18 NMAC 19.4.13.2, 9/14/2000]

**18.19.4.52 ESTABLISHED PLACE OF BUSINESS - PORTION OF BUILDING NOT QUALIFIED:**

**A.** A portion of an enclosed building shall not qualify as an established place of business if it is within a building which houses activities other than those of the dealer, or the dealer's incidental business activity; and either:

- (1) contains equipment or records not related to the dealership, or
- (2) is not suited by size, configuration or access to human use or occupation.

**B.** The burden of proof shall be on the dealer to show that a portion of an enclosed building should be qualified as an established place of business.

[7/19/1994, 9/14/1996; 18.19.4.52 NMAC - Rn, 18 NMAC 19.4.13.3, 9/14/2000]

**18.19.4.53 ESTABLISHED PLACE OF BUSINESS - ONE LICENSE PER LOCATION - EXCEPTION:**

**A.** Only one dealer, wrecker, wholesaler or distributor license may be issued to a location. If an established place of business is subdivided to accommodate more than one dealer, wrecker, wholesaler or distributor, each subdivided area must satisfy the requirements of Section 66-1-4.5(B) NMSA 1978. A location may not be subdivided for use by another person who is not a licensed dealer, wrecker, wholesaler or distributor.

**B.** If two or more licensed dealers, wreckers, wholesalers or distributors share a common boundary, a reasonable person must be able to identify those boundaries by means of a fence, rope or other physical barrier. The secretary, or the secretary's authorized representative, must approve the subdividing of a business location.

[7/19/1994, 9/14/1996; 18.19.4.53 NMAC - Rn & A, 18 NMAC 19.4.13.4, 9/14/2000]

**18.19.4.54 ESTABLISHED PLACE OF BUSINESS - DISPLAY AND PARKING AREAS:**

**A.** An established place of business for a dealer must have adequate space to safely display at least one vehicle of the type sold by the dealer.

**B.** An established place of business for a dealer or wrecker must have adequate space for customer parking, and be in compliance with local zoning ordinances regarding required parking spaces.  
[7/19/1994, 9/14/1996; 18.19.4.54 NMAC - Rn, 18 NMAC 19.4.13.5, 9/14/2000]

**18.19.4.55 ESTABLISHED PLACE OF BUSINESS - MAINTENANCE AND STORAGE OF BOOKS AND RECORDS:** An established place of business must have adequate space to accommodate customers, must be equipped with office furniture and equipment reasonably necessary for conducting the business of the dealer or wrecker and must have adequate space for maintaining and storing the books and records of the dealer or wrecker.  
[7/19/1994, 9/14/1996; 18.19.4.55 NMAC - Rn, 18 NMAC 19.4.13.6, 9/14/2000]

**18.19.4.56 ESTABLISHED PLACE OF BUSINESS - BOOKS AND RECORDS MUST BE AVAILABLE FOR INSPECTION:** A dealer or wrecker must keep his vehicle inventory books, accounts and records at his established place of business and must allow the secretary, the secretary's authorized representative, or any authorized representative of a law enforcement agency to inspect the books, accounts and records at any time between 8:00 a.m. and 5:00 p.m., Monday through Saturday, holidays excepted.  
[7/19/1994, 9/14/1996; 18.19.4.56 NMAC - Rn, 18 NMAC 19.4.13.7, 9/14/2000]

**18.19.4.57 ESTABLISHED PLACE OF BUSINESS - PROMINENT SIGNS REQUIRED AT ESTABLISHED AND ADDITIONAL PLACES OF BUSINESS:**

**A.** Signage at an established place of business shall clearly identify the licensed dealer or wrecker or the trade name, if used, as listed on the business license and corporate surety bond.

**B.** Signage at an additional place of business shall clearly identify the licensed dealer or wrecker or the trade name, if used, as displayed at the established place of business and as listed on the business license and corporate surety bond.

[7/19/1994, 9/14/1996; 18.19.4.57 NMAC - Rn, 18 NMAC 19.4.13.8, 9/14/2000]

#### **HISTORY OF 18.19.4 NMAC:**

**PRE-NMAC HISTORY:** Certain material in this part was derived that previously filed with the Commission of Public Records - State Records Center and Archives:  
MVD 77-3, In the Matter of Consideration or Suspension of Dealer License Under the Provision of Section 64-8-3, 64-8-1 and 64-8-6, 8/9/1977  
TRD Rule MVC 4-94, 7/19/1994.