

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 61 REAL ESTATE BROKERS
PART 32 REAL ESTATE ADVERTISING

16.61.32.1 ISSUING AGENCY: New Mexico Real Estate Commission.
[8-15-97; 16.61.32.1 NMAC - Rn & A, 16 NMAC 61.32.1, 1-1-2002]

16.61.32.2 SCOPE: The provisions in Part 32 of Chapter 61 apply to all real estate brokers in New Mexico.
[8-15-97, A, 2-14-2000; 16.61.32.2 NMAC - Rn, 16 NMAC 61.32.2, 1-1-2002; A, 1-1-2006]

16.61.32.3 STATUTORY AUTHORITY: Part 32 of Chapter 61 is promulgated pursuant to the Real Estate Licensing Law, NMSA 1978 Section 61-29-4.
[8-15-97; 16.61.32.3 NMAC - Rn, 16 NMAC 61.32.3, 1-1-2002]

16.61.32.4 DURATION: Permanent.
[8-15-97; 16.61.32.4 NMAC - Rn, 16 NMAC 61.32.4, 1-1-2002]

16.61.32.5 EFFECTIVE DATE: 8-15-97, unless a later date is cited at the end of a section.
[8-15-97; 16.61.32.5 NMAC - Rn & A, 16 NMAC 61.32.5, 1-1-2002]

16.61.32.6 OBJECTIVE: The objective of Part 32 of Chapter 61 is to set forth the requirements governing the advertising of real property for others for sale, purchase, rent, lease or exchange in the state of New Mexico.
[8-15-97; 16.61.32.6 NMAC - Rn, 16 NMAC 61.32.6, 1-1-2002]

16.61.32.7 DEFINITIONS: Refer to 16.61.1.7 NMAC.
[1-1-2000; 16.61.32.7 NMAC - Rn, 16 NMAC 61.32.7, 1-1-2002]

16.61.32.8 ADVERTISEMENTS:

A. All real estate advertising shall be a true and factual representation of the property and real estate services being advertised and the brokerage providing the services and shall not be presented in such a manner that will confuse or mislead the public.

B. Every qualifying broker advertising real property for others for sale, purchase, lease, exchange or rent, including short-term or vacation rentals, or advertising real estate services, shall at a minimum, use in such advertising the trade name and current brokerage office telephone number as registered with the commission. Directional signs are exempt from these requirements. Additional telephone numbers may be used in such advertising.

C. Associate brokers, when advertising real property for others for sale, purchase, lease, exchange or rent, or when advertising real estate services, shall include in the advertisement the trade name and the current telephone number as registered with the commission of the brokerage with which they are affiliated. Effective January 1, 2017, the brokerage trade name and telephone number shall be prominently displayed in a type size not less than thirty-three percent of the type size of the associate broker's name, or in the case of a team of associate brokers, the team name.

D. A broker advertising to, sell, or exchange real property which the broker owns or partially owns shall indicate within such advertising, including signs, that the broker owns the real property. Disclosure of such ownership must also be made in the listing contract, purchase agreement, or exchange agreement. If an owner-broker engages a third party broker to list the owner-broker's property, the third party broker is not required to make an owner-broker disclosure in advertising and signs, but such disclosure is required in the listing contract, purchase agreement or exchange agreement. A broker advertising to rent or lease real property which the broker owns or partially owns is not required to disclose such ownership in advertising and signs, but is required to make such disclosure in rental or lease agreements.

E. When advertising real property owned by a broker and the telephone number of the brokerage is used in the advertisement, the advertisement must also include the trade name of the brokerage as registered with the commission.

F. All advertising must be in compliance with all local, state and federal laws and regulations.

G. These requirements apply to all forms of advertising, including but not limited to print, audio and video recordings, computer presentations, online and electronic media. In the event that disclosure of the brokerage

name and telephone number as registered with the commission is not practical in electronic displays of limited information, such as thumbnails, text messages, links and tweets of 200 characters or less, such displays are exempt from the disclosure requirement provided such displays are linked to a display that includes all of the required disclosures.

[N, 1-1-2000; 16.61.32.8 NMAC - Rn, 16 NMAC 61.32.8, 1-1-2002; A, 1-1-2006; A, 1-1-2007; A, 1-1-2017]

HISTORY of 16.61.32 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the state records center and archives under: Real Estate License Law Manual, filed 10-2-73;

Rule No. 4 Amendment No. 1 (aka REC-4), Misleading Advertising, filed 6-15-79;

REC 70-4, Misleading Advertising, filed 10-6-81;

REC 71-4, Misleading Advertising, filed 11-29-82;

REC 84-4, Misleading Advertising, filed 10-25-84;

Rule No. 12, Advertising/Disclosure, filed 12-18-87;

NMREC Rule 12, Advertising/Disclosure, filed 10-3-94.

History of Repealed Material: [RESERVED]

Other History:

NMREC Rule 12, Advertising/Disclosure (filed 10-3-94) was reformatted, renumbered, and replaced by 16 NMAC 61.32, Advertising/Disclosure, effective 8-15-97.

16 NMAC 61.32, Advertising/Disclosure (filed 6-25-97) was reformatted, renumbered, amended, and replaced by 16.61.31 NMAC, Advertising/Disclosure, effective 1-1-2002.