

**Superseded 5/10/2016**

**32B-1-202 Proximity to community location.**

- (1) For purposes of this section, "outlet" means:
  - (a) a state store;
  - (b) a package agency; or
  - (c) a retail licensee, except an airport lounge licensee.
- (2) Except as otherwise provided in this section, the premises of an outlet may not be located:
  - (a) within 600 feet of a community location, as measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or
  - (b) within 200 feet of a community location, measured in a straight line from the nearest entrance of the outlet to the nearest property boundary of the community location.
- (3) With respect to the location of an outlet, the commission may authorize a variance to reduce the proximity requirement of Subsection (2) if:
  - (a) when the variance reduces the proximity requirement of Subsection (2)(b), the community location at issue is:
    - (i) a public library; or
    - (ii) a public park;
  - (b) except with respect to a state store, the local authority gives its written consent to the variance;
  - (c) the commission finds that alternative locations for locating that type of outlet in the community are limited;
  - (d) a public hearing is held in the city, town, or county, and when practical in the neighborhood concerned;
  - (e) after giving full consideration to the attending circumstances and the policies stated in Subsections 32B-1-103(3) and (4), the commission determines that locating the outlet in that location would not be detrimental to the public health, peace, safety, and welfare of the community;
  - (f)
    - (i) the community location governing authority gives its written consent to the variance; or
    - (ii) if the community location governing authority does not give its written consent to a variance, the commission finds the following for a state store, or if the outlet is a package agency or retail licensee, the commission finds that the applicant establishes the following:
      - (A) there is substantial unmet public demand to consume an alcoholic product:
        - (I) within the geographic boundary of the local authority in which the outlet is to be located; and
        - (II) for an outlet that is a retail licensee, in a public setting;
      - (B) there is no reasonably viable alternative for satisfying the substantial unmet demand other than through locating that type of outlet in that location; and
      - (C) there is no reasonably viable alternative location within the geographic boundary of the local authority in which the outlet is to be located for locating that type of outlet to satisfy the unmet demand.
- (4) With respect to the premises of a package agency or retail licensee that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (2) in considering whether to issue the package agency or same type of retail license to the new owner of the premises if:
  - (a) the premises previously received a variance reducing the proximity requirement of Subsection (2)(a);

- (b) the premises received a variance reducing the proximity requirement of Subsection (2)(b) on or before May 4, 2008; or
  - (c) a variance from proximity requirements was otherwise allowed under this title.
- (5) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.