

Effective 5/1/2024

Superseded 5/7/2025

32B-1-202 Proximity to community location.

(1) As used in this section:

- (a) "Designated project area zone" means the area that is:
 - (i) bounded by:
 - (A) South Temple Street;
 - (B) 100 South Street;
 - (C) West Temple Street; and
 - (D) 400 West Street; and
 - (ii) within a project area as defined in Section 63N-3-1401.

- (b)
 - (i) "Outlet" means:
 - (A) a state store;
 - (B) a package agency; or
 - (C) a retail licensee.
 - (ii) "Outlet" does not include:
 - (A) an airport lounge licensee; or
 - (B) a restaurant.

- (c) "Restaurant" means:
 - (i) a full-service restaurant licensee;
 - (ii) a limited-service restaurant licensee;
 - (iii) a beer-only restaurant licensee; or
 - (iv) a restaurant venue on-premise banquet licensee.

- (2)
- (a) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:
 - (i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or
 - (ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.
 - (b) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:
 - (i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or
 - (ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

- (3)
- (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

- (i) the outlet or restaurant changes ownership;
 - (ii) the property on which the outlet or restaurant is located changes ownership; or
 - (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.
- (b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.
- (4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:
- (a) the outlet or restaurant changes ownership;
 - (b) the property on which the outlet or restaurant is located changes ownership; or
 - (c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.
- (5)
- (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:
 - (i) the outlet or restaurant changes ownership;
 - (ii) the property on which the outlet or restaurant is located changes ownership; or
 - (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.
 - (b) The provisions of this Subsection (5) apply regardless of when the outlet's or restaurant's license is issued.
- (6) The proximity requirements described in Subsection (2) do not apply if the proposed outlet or proposed restaurant and the community location are located within the boundaries of a designated project area zone.
- (7) 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.