



ADMINISTRATIVE RULES OF MONTANA



42.12.106 DEFINITIONS

The following definitions apply to this chapter:

- (1) "Adjacent to," with regard to alcoholic beverage advertising limitations for premises suitability, means:
 - (a) the premises share a common internal or external wall with the building at issue; or
 - (b) there is an absence of another building between the premises and the building at issue; and
 - (c) the distance between the nearest exterior wall of the premises and the building at issue is equal to or less than 100 feet.
- (2) "Affiliation" means relationships wherein:
 - (a) an entity owns or controls another entity;
 - (b) entities are under common ownership or control; or
 - (c) an individual has decision-making authority or influence over business decisions for another entity.
- (3) "Alteration" means a structural change or modification to the premises other than a cosmetic change. Examples include adding a patio/deck or removing a half wall.
- (4) "Associated business" means a business that is not licensed by the state to keep or sell alcoholic beverages, but has an alcoholic beverages licensed business located within or on the premises owned or controlled by the "associated business." Examples of associated businesses are:
 - (a) a hotel that is not licensed to keep or sell alcoholic beverages, but leases space in the hotel to a licensee to sell alcoholic beverages; or
 - (b) a shopping mall that is not licensed to keep or sell alcoholic beverages, but leases space in the mall to a licensee to sell alcoholic beverages.
- (5) "Bona fide sale" means a transaction that completely transfers the property to a qualified purchaser for consideration.
- (6) "Building" means an enclosed structure with external walls and a roof that meets the requirements of 16-3-311, MCA. Buildings connected by skyways are not considered one building for licensing purposes.
- (7) "Business directly related to the on-premises consumption of alcoholic beverages" means a business that is readily associated with on-site alcoholic beverage consumption, such as a hotel, bowling alley, casino, or restaurant. It does not include alcoholic beverage manufacturers, grocery stores, or off-premises alcoholic beverage businesses, except as allowed under 16-3-311, MCA.

- (8) "Catered event" means a special event where the sale and service of alcoholic beverages is conducted by a licensee who has obtained a catering endorsement.
- (9) "Catered event service area" means the area in which the licensee with a catering endorsement may sell and serve alcoholic beverages at retail.
- (10) "Colocated license" means the same as the term defined in 16-4-401, MCA.
- (11) "Colocated premises" means the same as the term defined in 16-4-401, MCA.
- (12) "Complete application" means that the applicant has supplied all information and documentation requested on the license application forms or required by statute or rule and the necessary information and documentation requested by the department to complete the application.
- (13) "Concession agreements" are agreements in which an on-premises consumption beer licensee or all-alcoholic beverages licensee provides the sale and service of alcoholic beverages for a non-licensed entity.
- (14) "Contiguous" means touching or sharing a common border.
- (15) "Cross collateralization" means collateral for one loan also serving as collateral for another loan.
- (16) "Drink preparation area" means the bar area on the premises where alcoholic beverages are stored and prepared for on-premises consumption and from which alcoholic beverages may be sold for off-premises consumption.
- (17) "Event barrier" means a barrier enclosing the perimeter of a catered event service area. The construction, installation, and use criteria of an event barrier is provided in ARM 42.12.128.
- (18) "Fair" means a county, state, or regional fair that occurs no more than once per year, is held on a publicly owned fairgrounds, and is officially sanctioned by a government entity.
- (19) "Family relationship" means a spouse, dependent children, or dependent parents.
- (20) "Floor plan" means a diagram with measurements of the premises as seen from above.
- (21) "Grocery store" means a self-service retail establishment where a variety of perishable and nonperishable food items and household goods are sold for use off the premises.
- (22) "Interior access" means entry that does not impede customer foot traffic from accessing any interior portion of the premises. Interior access is not found where a customer would be required to leave the interior portion of the premises.
- (23) "Licensee" means a person, partnership, association, or other entity holding a Montana retail alcoholic beverage license, a retail alcoholic beverage operation located on a U.S. military installation, an alcoholic beverage manufacturer, a table wine distributor, or a beer wholesaler within Montana.
- (24) "License fee" means a fee paid at the time a new license application is submitted and upon renewal of an existing license.
- (25) "Loan" means a written contract by which one delivers a sum of money to another with the agreement that the money be returned with interest within a specified period of time.
- (26) "Manufacturing area" means the portion of a manufacturing premises that is not designated as a sample room, or operating a retail license under 16-4-401(9), MCA.

- (27) "Noninstitutional lender" means a person other than a state or federally regulated banking or financial institution, a credit union, an investment company, a development company, or other regulated lender as defined in 31-1-111, MCA, who loans money to the applicant for a license or to the licensee.
- (28) "Ownership interest" means the involvement in the business operated under the license by someone who owns some or all of the assets of the business, shares any portion of the profits, or any portion of the losses or liabilities of the business. Someone with an ownership interest in a liquor license shares in the financial risks of the business and is entitled to the profits or suffers the losses. Ownership interest includes the right to control the location or ownership of a license. Examples of ownership interests would include the authority to participate in such business decisions as the sale of the license, relocation of the license, or change or creation of any financial arrangements for loan repayment or funding sources. Participation in business decisions does not include providing advice. A right of first refusal is not an ownership interest.
- (29) "Parties" means a:
- (a) licensee;
 - (b) applicant;
 - (c) secured party;
 - (d) protestor; or
 - (e) attorney representing the licensee, applicant, secured party, protestor, or other interested party.
- (30) "Patio/Deck" means an outdoor portion of the premises where the preparation, service, and consumption of alcoholic beverages is allowed.
- (31) "Perimeter barrier" means a barrier enclosing the perimeter of the patio/deck. The barrier shall be constructed in a manner that impedes foot traffic and clearly defines the boundary of the exterior portion of the premises. The barrier shall be at least three feet high at all points and may have a single entrance permitting public access from an unlicensed area to the patio/deck. Upon the department's determination that the barrier accomplishes its intended purpose, the barrier may:
- (a) be constructed of materials such as lattice or wrought iron that do not form a solid structure;
 - (b) have a portion of it be water;
 - (c) have additional entrances permitting public access to the patio/deck; and
 - (d) be less than three feet in height.
- (32) "Permanent floor-to-ceiling wall" means a continuous structure spanning from floor to ceiling that remains in a fixed position and serves as a solid physical barrier. The wall may be constructed of brick, glass, stone, wood, and other materials as approved by the department. The wall may not be constructed of materials such as lattice or wrought iron that do not form a solid physical barrier.
- (33) "Premises" means the area identified in the floor plan approved by the department on which the activities authorized under the license may be conducted.

- (34) "Prepared serving" means the same as the term provided in 16-1-106, MCA.
- (35) "Registered vendor representative" means the same as provided in ARM 42.11.105.
- (36) "Retail alcoholic beverages license" means a license operated by an establishment for the retail sale of alcoholic beverage for either on- or off-premises consumption but does not include brewery, winery, or distillery licenses.
- (37) "Sacramental wine" means wine that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.
- (38) "Sample room" means the area of a manufacturer's premises where the service, sale, and on-premises consumption of alcoholic beverages are permitted.
- (39) "Self-pour device" means the same as an electronic or other technology-based device used to measure and supply customers with a predetermined volume of beer or wine, as described in 16-3-311(1)(a)(ii), MCA.
- (40) "Self-service of alcoholic beverages" means allowing persons other than the licensee or its employees, or a concessionaire or the concessionaire's employees, to have access to alcoholic beverages prior to the licensee or its employees providing the alcoholic beverage to the person for on-premises consumption. The term does not include beer or wine that was provided in a pitcher, bucket, or bottle, and beer or wine dispensed through an approved self-pour device.
- (41) "Service area" means the area on the premises where the service, sale, and on-premises consumption of alcoholic beverages are permitted. The service area includes any patio/deck and drink preparation area.
- (42) "Service bar" means an area on a restaurant beer and wine licensee's premises where alcoholic beverages are stored and prepared for on-premises consumption.
- (43) "Ski hill," for the purpose of administering 16-3-302(4), MCA, means the site and permanent structures that have been developed for alpine or Nordic skiing.
- (44) "Special event," as it relates to special permits and catered events, means a short, infrequent, out-of-the-ordinary occurrence such as a picnic, fair, festival, reception, seasonal event, or sporting event for which there is an outcome, conclusion, or result.
- (45) "Stand-alone beer and/or table wine business" means a business in which 95 percent of the business's annual gross income comes from the sale of beer, table wine, or both.
- (46) "Storage area" means any portion of the premises that is accessible only by the licensee or its employees and where alcoholic beverages are stored in original packaging.
- (47) "Substantially different use" means a change great enough to create a new type of business operation at a premises which is easily distinguishable from the business currently operated or previously planned to be operated at the same premises.
- (48) "Temporary operating authority" means the authority granted to an applicant to operate a business pending final approval of the application.
- (49) "Undisclosed ownership interest" means a person with an ownership interest in a license who is not identified as an applicant, shareholder, or member of an applicant on an application for the license, or as a licensee on the face of the license.

Authorizing statute(s): 16-1-303, MCA

Implementing statute(s): 16-1-106, 16-1-302, 16-3-311, MCA

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