



Legislation Details (With Text)

File #: 23-1637 **Version:** 1 **Name:** Ordinance: Amending Title 4, Chapter 3 The Regulation of Licenses Section 2 1K Foot Rule - Transfer to Transfer (MS)

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Title: AN ORDINANCE AMENDING TITLE IV, ALCOHOLIC BEVERAGES, CHAPTER 4, THE REGULATION OF LICENSES, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED TO AMEND SECTION 4:3-2, ONE THOUSAND FOOT RULE; EXCEPTIONS, FOR PLACE-TO-PLACE TRANSFER OF ALCOHOLIC BEVERAGE LICENSE.

Sponsor(s): Council Member, Michael J. Silva

Sponsors: Michael J. Silva, Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
11/1/2023	1	Municipal Council	Close on Public Hearing and Adopt	Pass
10/18/2023	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass
10/18/2023	1	Municipal Council	Amend and advance to first reading	Pass

AN ORDINANCE AMENDING TITLE IV, ALCOHOLIC BEVERAGES, CHAPTER 4, THE REGULATION OF LICENSES, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED TO AMEND SECTION 4:3-2, ONE THOUSAND FOOT RULE; EXCEPTIONS, FOR PLACE-TO-PLACE TRANSFER OF ALCOHOLIC BEVERAGE LICENSE.

Sponsor(s): Council Member, Michael J. Silva

WHEREAS, N.J.S.A. 33:1-12.16 permits a municipality to regulate, by ordinance, the renewal or transfer of existing alcoholic beverage license; and

WHEREAS, N.J.A.C. 13:2-7.1 et seq., sets forth Rules and Regulations governing transferability of license; and

WHEREAS, the Ordinance needs to be amended to reflect current business practices.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Note: Additions are shown in **Bold and Underlined**. Deletions are shown in **Strikeouts**.

SECTION 1. Title IV, Alcoholic Beverages, Chapter 4:3, The Regulation of Licenses, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is amended and supplemented, to amend Section 4:3-2, One Thousand Foot Rule; Exceptions as follows:

CHAPTER 4, The Regulation of Licenses

§ 4:3-1.7 TRANSFER FROM PLACE TO PLACE TO COMPLY WITH STATE REQUIREMENTS. **<<https://ecode360.com/36642704>>**

An application for a transfer from place to place shall meet the requirements of publication and the form in relation thereto and due proof thereof shall be filed, all as required by the Rules and Regulations of the State Department of Law and Public Safety, Division of Alcoholic Beverage Control of the State.

§ 4:3-2 ONE THOUSAND FOOT RULE; EXCEPTIONS. **<<https://ecode360.com/36642704>>**

a. **<<https://ecode360.com/36642715>>**

To encourage the reasonable distancing of retail establishments:

1. **<<https://ecode360.com/36642716>>**

No Plenary Retail Consumption License may be transferred to any location within 1,000 feet of any church or public schoolhouse or private schoolhouse not conducted for pecuniary profit.

2. **<<https://ecode360.com/36642717>>**

No Plenary Retail Distribution License may be transferred to any location within 1,000 feet of any other Plenary Retail Distribution License, or Plenary Retail Consumption Licensee, or any church or public schoolhouse or private schoolhouse not conducted for pecuniary profit.

b. **<<https://ecode360.com/36642718>>**

All renewals for the same premises and transfer of licenses from person to person within the same premises will be subject to the discretion of the Newark Alcoholic Beverage Commission Board (Newark ABC).

c. **<<https://ecode360.com/36642719>>**

Notwithstanding paragraph a, the Newark A.B.C. may in its own discretion grant a place-to-place transfer to the same licensee within 1,500 feet of that licensee's existing licensed premises if the transfer is made in good faith and solely benefits that same licensee.

1. **<<https://ecode360.com/36642720>>**

This section has as its only effect the 1,500-foot distance hereinabove stated and is not intended to declare that the transfer in and of itself would be granted inasmuch as all of the other necessary prerequisites must be shown to the Newark A.B.C.

d. **<<https://ecode360.com/36642721>>**

Notwithstanding the above-mentioned 1,000-foot limitation, the local issuing authority, at their discretion, may allow transfer of said licenses free of said 1,000-foot limitation in the event that:

1. **<<https://ecode360.com/36642722>>**

The proposed location has been previously licensed at some time during the past 60 months for the sale and consumption of alcoholic beverages pursuant to a club license issued pursuant to N.J.S.A. 33:1-12; and

2. <https://ecode360.com/36642723>

The licensee is operating and has been operating for a period of at least **three (3) months** ~~42 months~~ a restaurant, as defined by N.J.S.A. 33:1-1(t); and

3. <https://ecode360.com/36642724>

The establishment must have a minimum capacity of at least 30 dining customers in its main dining room. Establishments with a capacity of at least 30 to 99 dining customers in its main dining room may have not more than nine seats in its main service bar area. Establishments that have a capacity of 100 dining customers or more in their main dining area may have seats in the main service bar area equaling a maximum of 10% of the number of seats in its main dining area.

e. <https://ecode360.com/36642725>

Notwithstanding the above-mentioned 1,000-foot limitation affecting the transfer of any Plenary Retail Consumption or Distribution License, the Newark A.B.C. may, in its discretion, allow transfer of such license free of such 1,000-foot limitation herein fixed in the event of any licensee's premises being taken for any Municipal, County, State or Federal project; provided, nevertheless, the new location to which the license is to be transferred under this exception shall not be located within a distance of 600 feet of a then existing location licensed to do business under a like license as the one being transferred. The 600 feet distance shall be measured in the manner as herein provided for the measuring of the 1,000-foot distance. In the event any transfer of a license should be allowed under this exception, no license shall thereafter be transferred to the premises or any part thereof so vacated by such transfer, nor within a radius of 600 feet thereof; provided, however, that all other provisions of this Title are complied with.

f. <https://ecode360.com/36642726>

Any contract to purchase premises, or any agreement containing an option to purchase premises, or any leasehold agreement which has been entered into prior to December 10, 1961, to cause a removal of a license-holder to a place of business within 750 feet of the license-holder's present place of business which contract of purchase, or option in any agreement, or leasehold interest to be obtained, is filed with the Newark A.B.C. prior to December 10, 1961, shall not be bound by the 600-foot rule in this section.

g. <https://ecode360.com/36642727>

Paragraph a shall not apply to any transfer, or assignment of a present license-holder's right to a contract to purchase, or agreement containing an option to purchase, or lease hold agreement which becomes effective in the future. This section applies only to an existing license-holder as of December 10, 1961.

h. <https://ecode360.com/36642728>

The 1,000, 750 or 600 feet referred to in this section shall be measured by a horizontal circle having a radius of the applicable measurement, with the exception of any church, or public schoolhouse or private schoolhouse not conducted for pecuniary profit. The center of this circle shall be the property address, as indicated on the City's Official Tax Map, of the premises sought to be licensed. Any other premises falling within such distance, in part or in whole, shall be deemed to be within the applicable measurement for the purpose of this Title. It shall be the responsibility of the licensee to have a licensed surveyor prepare a map showing these facts. Such maps shall be filed with the Newark A.B.C. seven days before the hearing on the transfer.

i. <https://ecode360.com/36642729>

The 1,000 feet referred to for any church or public schoolhouse or private schoolhouse not conducted for pecuniary profit shall be measured in the normal way that a pedestrian would properly walk from the nearest entrance of the church or school to the nearest entrance of the premises sought to be licensed.

j. <https://ecode360.com/36642730>

The 1,000-foot rule hereinabove set forth shall not apply in the instance of a place-to-place transfer of a liquor license to premises located within the boundaries of the now superseded Downtown Family Restaurant and Entertainment District ("District"), which district area is more particularly identified in Code Section 8:12-1.7A **and the Arts and Education District ("AED"), as defined by City Ordinances Title XLI, Zoning and Land Use Regulations.**

1. <https://ecode360.com/36642731>

This exception will apply only to license transfers relocating by place to place within the now superseded Downtown Family Restaurant and Entertainment District and **the Arts and Education District** where:^[2] <https://ecode360.com/36642704>

(a) <https://ecode360.com/36642732>

The establishment may have dancing or live entertainment if properly licensed for it, but in no case shall go-go or discotheque clubs as defined in the City Ordinances Title XLI, Zoning and Land Use Regulations, Chapter 2, Definitions, be permitted.

(b) <https://ecode360.com/36642733>

This 1,000-foot exception shall not apply to any go-go establishment or discotheque clubs as defined in the City's Title XLI, Zoning and Land Use Regulations.

(c) <https://ecode360.com/36642734>

The establishments within the now superseded Downtown Family Restaurant and Entertainment District and **Arts and Education District** may have sidewalk cafe style serving and must conform to Title XXIX in its entirety as it pertains to sidewalk cafes. The sidewalk cafe area will not be included as part of its main dining area.

(d) <https://ecode360.com/36642735>

As a precondition to consideration of any place-to-place transfer in the District, the licensee shall have obtained all of the necessary permits to operate at the proposed location, including, but not limited to zoning permits, certificate of occupancy, Division of Fire permit(s), and engineering permit (s) for a sidewalk cafe under Title XXIX, Streets and Sidewalks, if applicable.

(e) <https://ecode360.com/36642736>

Any premises located within the boundary of the now superseded Downtown Family Restaurant and Entertainment District **and Arts and Education District** at the time of the passage of this paragraph shall not be subject to:

(1) <https://ecode360.com/36642737>

Paragraph j herein.

(2) <https://ecode360.com/36642738>

The 1,000-foot rule set forth in Section **4:3-2** <https://ecode360.com/36642714> of Title IV, Alcoholic Beverages, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented with regard to any public or private school house and church not conducted for pecuniary profit.

(f) <https://ecode360.com/36642739>

Any person, holding, or under contract or option to purchase, a plenary retail consumption license or plenary retail distribution license may petition the Newark A.B.C. for an exception to the rule prohibiting a transfer to be made to another premises within a distance of 1,000 feet from any other premises then covered by a plenary retail consumption or distribution license. The Newark A.B.C. Director may, at its discretion, choose to grant or deny the exception.

See Code Section **8:12-1** <<https://ecode360.com/36677880>> for the definition of the Downtown Family Restaurant and Entertainment District.

Based on the City's Redevelopment Plans that operate in and around the downtown area, the boundaries used should therefore be comprised of "The Living Downtown Redevelopment Plan," the "Newark Downtown Core District Redevelopment Plan and Amendment to Newark's Plaza Urban Renewal Plan," "The Broad Street Station District Redevelopment Plan," the "Lincoln Park Redevelopment Plan," and the segment identified as "Downtown" from the "Newark's River Public Access and Redevelopment Plan."

The boundaries of these various Redevelopment Plans can be viewed in the City of Newark Division of City Planning, Room 112, Newark City Hall, 920 Broad Street, Newark, NJ 07102. A map of the boundaries, for informational purposes only, can also be found on the Division's website at: <https://www.newarknj.gov/viewer/redevelopment-plans>

SECTION 2. Severability. If any provision of this amendment shall be deemed unenforceable by a Court of competent jurisdiction, the remainder of the amendment shall remain in full force and effect.

SECTION 3. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

SECTION 4: Codification. This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

STATEMENT

This Ordinance amends Title IV, Alcoholic Beverages, Chapter 4, The Regulation of Licenses, of the Revised Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented to amend the one thousand foot rule exception for place-to-place transfer of alcoholic beverage license and to add the Arts and Education District.