

Governor Murphy has announced that bars and restaurants will be permitted to open with limited outdoor service on June 15, 2020. ABC has created a new permit to address the anticipated need of licensees to expand their premises to allow reasonable seating capacity while observing social distancing guidelines. This permit will be available to all licensees with retail consumption privileges and will allow liberal expansion privileges subject to local approval for the following:

1. Expansion into areas adjacent to or contiguous to the licensed premises, such as public or private decks, patios, sidewalks and parking lots; or
2. Expansion into areas that are not contiguous to the licensed premises, as long as these areas are reasonably accessible from the licensed premises, such as parks, “parklets” established by a municipality, or other public rights-of-way.^[1]

In both scenarios, the licensee must show that it has the legal right (e.g., possession and control) to use the property. See N.J.A.C. 13:2-9.3. If the property is not owned by the licensee they will require a lease or some other written document from the owner. In the case of public property, a resolution, ordinance or express written permission from the public entity owner is needed. Off-premises consumption of alcoholic beverages including “cocktails to go” in public areas is within the jurisdiction of each municipality. See N.J.S.A. 40:48-1.

The COVID-19 Expansion Permit will be available exclusively through ABC’s POSSE Online Licensing System (“POSSE”) as soon as Friday, June 5. The term will be from date of issuance until November 30, 2020, which is the same month as the expiration of seasonal retail consumption licenses. The one-time fee will be \$75. The application will require the following information:

1. Name, address and license number of applicant;

2. Description of property that is the subject of the expansion, including a sketch or photographs;
3. Written approval of the property owner authorizing temporary use of the property by the licensee;
4. Security plan for sale and service of alcoholic beverages in the expanded area, including prevention of pass offs and underage drinking and service to over intoxicated individuals; and
5. Statement by the licensee or permittee that operation of the expanded premises is consistent with the social distancing mandates in the Governor's Executive Orders.

As with ABC's other permits, endorsement by the municipal clerk and chief of police will be required to ensure that local concerns, such as hours, proximity to neighbors, site plan approvals and other local concerns are taken into account. Special conditions may be incorporated into permits, if needed to address particular circumstances. See N.J.S.A. 33:1-32. ABC realizes that many licensees are looking forward to opening as soon as possible, so we expect to issue the permit within days of endorsement by the clerk and police chief.

[1] Normally, ABC only allows extension of premises onto adjacent or contiguous property, but due to the extraordinary impact of the pandemic on bars and restaurants, and feedback from the industry and municipalities, ABC believes it is necessary to allow expansions to non-contiguous properties that are in reasonable proximity to the licensed premises.