

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

AN 2024-06 – ADVISORY NOTICE REGARDING
SHOPPING MALL LICENSES (N.J.S.A. 33:1-12.55)

The purpose of this Advisory Notice is to clarify and explain the law establishing new Shopping Mall licenses, authorizing the sale of alcoholic beverages for immediate consumption on a premises located within a qualifying shopping mall. The effective date of the law is August 1, 2024.

By way of background, on January 16, 2024, Governor Philip D. Murphy signed into law [P.L. 2023, c.290](#). The new law makes changes to the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 to 33:5-5, including the establishment of Shopping Mall licenses, a new type of retail consumption license that may be issued by the governing body of an eligible municipality. N.J.S.A. 33:1-12.55. As discussed below, an eligible municipality must have at least one shopping mall and have reached the population cap limitation in N.J.S.A. 33:1-12.14. Such a municipality may issue up to four Shopping Mall licenses. The Director intends to promulgate regulations implementing the provisions of the statute establishing Shopping Mall licenses.

Qualifying Shopping Mall

1. Generally, municipalities that have reached the population cap for plenary retail consumption licenses (one for every 3,000 municipal residents) cannot issue additional licenses. N.J.S.A. 33:1-12.14. Beginning on August 1, 2024, an eligible municipality that has reached the population cap and has a qualifying shopping mall may issue special Shopping Mall licenses to be sited at a premises within the mall. N.J.S.A. 33:1-12.55.
2. A qualifying shopping mall must (a) meet a square footage requirement with at least 750,000 gross square feet (GSF); (b) be under common ownership or control; (c) have a standalone, publicly accessible enclosed walkway or hall area that connects retail and entertainment establishments, food and beverage establishments, and office space; and (d) at least one of the mall establishments must be operating as a Plenary Retail Consumption Licensee (i.e., restaurant, bar). N.J.S.A. 33:1-12.55(a). In addition, a qualifying shopping mall must have been constructed prior to the effective date of the statute (August 1, 2024), or an application for a construction permit must be declared complete by a municipal enforcing agency prior to the effective date of the statute. N.J.S.A. 33:1-12.55(a)(2).
3. A ‘strip mall,’ defined as a retail shopping complex with stores, restaurants or other businesses in adjacent storefronts that open onto a common parking lot or outdoor pedestrian walkway, does not qualify for a Shopping Mall license. N.J.S.A. 33:1-12.55(k).

4. The governing body of an eligible municipality may issue (by ordinance or resolution) up to two Shopping Mall licenses for use in connection with a food and beverage establishment located within a shopping mall that has a minimum gross square footage of 750,000 GSF, and four Shopping Mall licenses if the shopping mall has a minimum gross square footage of 1,500,000 GSF. N.J.S.A. 33:1-12.55(b).
5. The initial issuance fee for a Shopping Mall license must be at least \$250,000. Half of this fee must be paid to the municipality upon issuance of the license, and the remaining amount must be paid a year later. The municipality must establish an annual renewal fee not to exceed the renewal fee imposed on other Plenary Retail Consumption Licensees in the municipality. N.J.S.A. 33:1-12.55(g).
6. A Shopping Mall license bestows the sole privilege of selling alcoholic beverages for immediate consumption on the licensee's premises. Alcoholic beverages may not be sold for off-premises consumption within the shopping mall or elsewhere. N.J.S.A. 33:1-12.55(c). A license holder of a Shopping Mall license may sell the license for the same amount as the initial issuance fee. N.J.S.A. 33:1-12.55(h). However, the license may only be transferred to a premises within the same shopping mall. N.J.S.A. 33:1-12.55(f). A Shopping Mall license shall not be transferred to the governing body of another municipality. N.J.S.A. 33:1-12.55(h).
7. A Shopping Mall license is subject to all provisions of Title 33 (Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 to -33:5-5), as well as Division regulations and municipal ordinances. Thus, a Shopping Mall license is subject to public sale requirements and annual license renewal requirements (including State filing fees and tax clearance). N.J.S.A. 33:1-19.1 to -19.5; N.J.S.A. 33:1-17.1; N.J.A.C. 13:2-4.3(a).

This Advisory Notice does not impose any new or additional requirements that are not already required by existing statute or regulation, nor does it establish any rights or obligations on any person or party. N.J.S.A. 52:14B-3a(d). This is a regulatory guidance document and does not provide legal advice, nor should it be treated as providing legal advice. Licensees should speak to a qualified attorney for legal advice.

Any questions concerning this Advisory Notice should be directed to DAG Ray Lamboy (ray.lamboy@njoag.gov, 609-376-2774).



KIRSTIN L. KRUEGER
INTERIM DIRECTOR

Dated: July 31, 2024

Checklist for Shopping Mall Licenses (N.J.S.A. 33:1-12.55)

Qualifying Shopping Mall in Eligible Municipality at Population Cap (N.J.S.A. 33:1-12.14)

- “Shopping Mall”
 - Under common ownership or control (N.J.S.A. 33:1-12.55(a)(1)).
 - Standalone, publicly accessible enclosed walkway or hall area that serves to connect retail, entertainment, office space, and food and beverage establishments, including at least one restaurant or other establishment that serves alcoholic beverages pursuant to a plenary retail consumption license (N.J.S.A. 33:1-12.55(a)(1)).
 - Constructed prior to August 1, 2024, or for which a construction permit application has been declared complete by a municipal enforcing agency prior to August 1, 2024 (N.J.S.A. 33:1-12.55(a)(2)).
 - Minimum 750,000 gross square feet (GSF) (N.J.S.A. 33:1-12.55(b)(1)).
 - A “strip mall” (retail shopping complex consisting of stores, restaurants, or other businesses in adjacent spaces or storefronts in one or more buildings connected by a doorway or open onto a common parking lot or outdoor pedestrian walkway) does not qualify for a Shopping Mall license (N.J.S.A. 33:1-12.55(k)).

Issuance of Shopping Mall License

- Governing body of eligible municipality may (by ordinance or resolution) issue:
 - Two Shopping Mall licenses for use in connection with a food and beverage establishment within a qualifying shopping mall with a minimum 750,000 GSF (N.J.S.A. 33:1-12.55(b)(1)).
 - Four Shopping Mall licenses for use in connection with a food and beverage establishment within a qualifying shopping mall with a minimum 1,500,000 GSF (N.J.S.A. 33:1-12.55(b)(2)).
- Municipality shall impose an initial fee of at least \$250,000 for a Shopping Mall license. Half the initial fee shall be paid upon issuance of the license, and the balance shall be paid one year later (N.J.S.A. 33:1-12.55(g)).

- Municipality shall establish an annual renewal fee for the license not to exceed the annual renewal fee imposed on a plenary retail consumption license (N.J.S.A. 33:1-12, -12.55(g)).

Limitations on Shopping Mall License

- A Shopping Mall license does not include the privilege of selling alcoholic beverages for off-premises consumption (N.J.S.A. 33:1-12.55(c)).
- A Shopping Mall license shall not be transferred for use in connection with any premises other than a premises operated as a food and beverage establishment within the same shopping mall (N.J.S.A. 33:1-12.55(f)).
- If a Shopping Mall license is transferred, the license shall be sold for the sum paid for the initial fee (N.J.S.A. 33:1-12.55(h)).

Compliance with Title 33 (Alcoholic Beverage Control Act), Regulations, Ordinances

- A Shopping Mall license is subject to all provisions of the Alcoholic Beverage Control Act (N.J.S.A. 33:1-1 to -33:5-5), Division regulations and municipal ordinances (N.J.S.A. 33:1-12.55(e)).
- A person who would fail to qualify as a licensee under the Alcoholic Beverage Control Act shall not be permitted to hold an interest in a Shopping Mall license (N.J.S.A. 33:1-12.55(d)).