

**DEPARTMENT OF STATE
OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
700 Renewal and Alterations of Licenses**

**704 (Formerly Rule 42.1) Construction, Renovation, Extension of Premises to Include Patios:
Procedures, Standards and Fees**

1.0 Purpose and Scope

- 1.1 Licenses issued under the provisions of Title 4, Delaware Code (Liquor Control Act) are approved based upon the physical plan as presented in the initial application. Under the provisions of Rule 703 any and all alterations to the licensed premises must be presented and approved by the Commissioner prior to execution.
- 1.2 This rule provides procedures, standards and fees for use permits and enforcement inspection under Rule 703.

2.0 Definitions

"Patio" means deck or porch, covered, uncovered, raised or at grade, and must be attached to, and contiguous with the licensed premises.

"Premises" means the building or buildings identified by a single address number or lease space number, to which a license to sell alcoholic liquors for consumption "on" or "off" has been issued by the Commissioner, but shall not include the surrounding grounds, parking lot, ancillary structures, contiguous water, still or moving, or piers, floating docks or buildings, patios covered or uncovered, or any other structure, modular or mobile home attached or connected to the licensed establishment by electrical, water, sewer or heating/air conditioning systems.

"Wet Bar" means any fixed or portable, permanent or temporary, point of service for sale, delivery or service of alcoholic beverages.

3.0 Patio Permit

An extension of premises patio permit may be issued, and valid during the term of the basic license, providing the following procedures are followed and said extension is approved by the Commissioner.

4.0 Procedures

- 4.1 For all construction and/or renovation:
 - 4.1.1 Submit to the Commissioner a letter of intent including:
 - 4.1.1.1 Detailed floor or construction plans (2 sets) showing dimensions, point of contact with the licensed premises, elevation and identification of access and egress, wet bars, seating and table arrangements, storage, restrooms, parking and fencing. In the event that the applicant is for a restaurant license, include the areas utilized for entertainment, either permanent or temporary;
 - 4.1.1.2 The total square footage of the extended premises;
 - 4.1.1.3 Approval from the appropriate political subdivision;
 - 4.1.1.4 Intended construction start and finish dates;
 - 4.1.1.5 Filing Fee (non-refundable).
- 4.2 Notice of an extension of the licensed premises must be made in accordance with 4 **Del.C.** §524. The Commissioner will review the intent plans, and if no protest is received within the protest period, may issue a construction approval to begin construction. Any change in plans must be submitted to the Commissioner for approval, accompanied by a filing fee.
- 4.3 In the event a protest is received, a public hearing will be scheduled to hear the protest.
- 4.4 When construction is completed, the Commissioner shall be notified for final inspection of the site.
- 4.5 Upon final inspection, approval, and upon payment of the non-refundable inspection fee, and patio permit fee, if applicable, the Commissioner shall authorize use as an extension of premises.

5.0 Fees

TITLE 4 ALCOHOLIC BEVERAGE CONTROL COMMISSION
DELAWARE ADMINISTRATIVE CODE

- 5.1 Filing Fee: \$25.00
- 5.2 Inspection fees:
 - 5.2.1 Up to 2500 square feet \$100.00
 - 5.2.2 2501-7500 square feet \$200.00
 - 5.2.3 7501-10,000 square feet .03/sq. ft.
 - 5.2.4 10,001-15,000 square feet .04/sq. ft.
 - 5.2.5 over 15,000 square feet .05/sq. ft.
- 5.3 Patio use permit fee: Biennial fee of \$1,000.
- 5.4 Fee for a variance to the standards set forth in Section 6.0 below is a biennial fee of \$100 per variance.

6.0 Standards for Patios

- 6.1 No live entertainment on licensed patio.
- 6.2 No external speakers or amplifiers on licensed patio.
- 6.3 No audible paging system on licensed patio.
- 6.4 No wet bar on licensed patio.

7.0 Variances

The Commissioner may authorize variances for good cause shown to the inspection standards for individual patio requests.

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