

DIVISION 5
CRITERIA FOR ISSUANCE AND
MAINTENANCE OF LICENSES

471.730(1) & ORS 471.730(5)
 Stats. Implemented: ORS 471.292 & ORS
 471.730(5)
 Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0301**Purpose and Interpretation**

(1) ORS 471.313 is the primary statute that gives the reasons for which the Commission may deny an alcoholic beverage license application. The rules in this Division describe how the Commission applies these and other licensing-related statutes in granting, denying, modifying or renewing alcoholic beverage licenses and related privileges.

(2) The Commission liberally applies these rules to:

- (a) Minimize health or safety problems caused by the use and abuse of alcoholic beverages;
- (b) Encourage moderation in the use of alcoholic beverages;
- (c) Ensure that qualified persons obtain available licenses and operate in compliance with alcoholic beverage laws;
- (d) Prevent access to alcoholic beverages by minors;
- (e) Provide the opportunity for public participation in license decisions;
- (f) Provide guidelines for local governments in making recommendations to the Commission;
- (g) Ensure availability of alcoholic beverages to the public.

Stat. Auth.: ORS 471, including
 471.030, ORS 471.040, ORS
 471.730(1) & ORS 471.730(5)

Stats. Implements: ORS 471.313

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0302**Regular License**

As used in OAR chapter 845, regular license means any license that may be issued for an annual period.

Stat. Auth.: ORS 471, including
 471.030, ORS 471.040, ORS

845-005-0303**Alcohol Impact Areas**

(1) Purpose. In some of Oregon's larger cities, there are areas with very serious alcohol-related problems where it would take extraordinary resources to identify the particular licensed businesses whose customers contribute to the problems. In these circumstances, the Commission may designate an alcohol impact area and set uniform limitations and requirements that specify how alcohol may be sold in the area. The purpose of this rule is to describe how the Commission, through the rulemaking process, designates an alcohol impact area and sets uniform limitations and requirements within it.

(2) Requesting an Alcohol Impact Area. In order for the Commission to consider designating an alcohol impact area, it must receive a petition for rulemaking. The Commission initiates rulemaking only on petitions from an authorized representative of an incorporated city with a population over 300,000. The petition must propose rule language to reduce street drinking and public intoxication associated with off-premises sales, or noisy conduct and late night disturbances associated with on-premises consumption.

(3) Prerequisites for Petitioning. The Commission requires voluntary efforts to address problems of street drinking and public intoxication, or noisy conduct and late night disturbances, and requires the city to seek public input before petitioning the Commission. A city that plans to petition for an alcohol impact area must:

- (a) Require affected businesses, citizens and city staff to make a serious and good faith effort to work cooperatively to develop a voluntary program to address the problems;
- (b) Make reasonable efforts to identify and notify those likely to be affected, offering them an opportunity to participate in the city's process;

- (c) Hold a public hearing where interested parties may comment on the documentation of problems and the proposed rule language;
- (d) Offer in the public hearing an opportunity for affected businesses to explain why their business operation should be exempted from the proposed limitations and requirements; and
- (e) Not take into consideration or make any proposal based on age, race, sex, disability, marital status, national origin, sexual orientation, color or religion.
- (4) Petition Contents. The city must meet the petitioning requirements of the Administrative Procedures Act (APA), including a comprehensive petition which includes:
- (a) An explanation of a serious and good faith effort by the affected businesses, citizens, and city staff to work cooperatively to develop a voluntary program to address the problem;
- (b) A description and documentation of a lengthy, pervasive history of:
- (A) Street drinking, public intoxication and related problems associated with off-premises sales that affect neighborhood livability. To document these problems, the city must use crime statistics, police reports, detoxification reports or similar records; or
- (B) Noisy conduct, late night disturbances and related problems associated with on-premises consumption that affect neighborhood livability. To document these problems, the city must use police reports or other records of government bureaus or departments.
- (c) A list of all the licensed businesses in the proposed alcohol impact area, a description of the parts of those businesses which may be contributing to the problem and an explanation why it is not practical to determine the specific sources of the problems;
- (d) Proposed rule language that designates the boundaries of the proposed alcohol impact area and a rationale for the boundaries;
- (e) Proposed rule language to limit off-premises alcohol sales, to limit hours of alcohol sales or to set any other limitations or requirements for the alcohol impact area designed to reduce the documented problems;
- (f) An assessment of the positive and negative impacts the proposed limitations and requirements would have, both short and long range, on:
- (A) Each licensed business within the proposed alcohol impact area;
- (B) The economic viability of the proposed alcohol impact area as a whole; and
- (C) The surrounding areas and the local governing body.
- (g) A list of all the licensed businesses in the proposed alcohol impact area that the city intends to not cover by the proposed limitations and requirements and an explanation of why they should not be covered; and
- (h) A list of all the licensed businesses in the proposed alcohol impact area that requested an exemption from the limitations and requirements. The city must explain why it thinks each requesting business operation should or should not be exempted.
- (5) Basis for Automatic Denial of Petition. The Commission automatically denies any petition that does not include the information required in section (4) of this rule.
- (6) Commission's Notice of Rulemaking. If the Commission initiates rulemaking to consider a proposed alcohol impact area, the Commission follows its Notice of Rulemaking procedures, schedules a public rulemaking hearing and also:
- (a) Makes a reasonable effort to identify and notify all neighborhood and business associations (registered with the Commission) and all licensees located in, or within 500 feet, of the proposed alcohol impact area; and
- (b) Sends a copy of the city's proposed

rule language to each of those associations and licensees.

(7) Commission's Rulemaking Process. In the process of rulemaking to consider the creation of an alcohol impact area, the Commission follows the APA requirements and also holds a public hearing at which interested parties may present additional information, and comment on the documentation of problems and the rule language proposed by the city.

(8) Designating an Alcohol Impact Area by the Commission. After reviewing the rulemaking record, the Commissioners consider whether or not to designate an alcohol impact area. In designating an alcohol impact area, the Commissioners set boundaries and uniform limitations and requirements which specify how alcohol may be sold in the area:

(a) In setting the boundaries of an alcohol impact area, the Commission identifies the boundaries by designating thoroughfares, waterways, or other similar boundaries. The Commission may extend the boundaries beyond the actual area where problems are concentrated;

(b) In setting limitations and requirements, the Commission may:

- (A) Limit off-premises alcohol sales;
- (B) Limit hours of alcohol sales; or
- (C) Set any other limitations or requirements for the alcohol impact area that may reduce the documented problems, such as limiting the number of new outlets in the area.

(c) The Commission does not take into consideration the age, race, sex, disability, marital status, national origin, sexual orientation, color or religion of the licensees or the patrons of the licensed businesses within the alcohol impact area.

(9) Exemptions. After the Commission has established an alcohol impact area and the limitations and requirements are in effect, licensed businesses may apply for an exemption for their business operation:

(a) The request must be in writing and include:

(A) A list of the limitations and requirements from which the licensee wants to be exempted; and

(B) An explanation of how the licensee's business operation did not and will not contribute to the problem, and why their business operation should be exempted from each of the limitations and requirements from which they are requesting exemption.

(b) The burden is on the licensee to convince the Commission that their business operation did not and will not contribute to the problems in the area and should be exempted from each of the limitations and requirements from which they are requesting exemption;

(c) If the Commission denies a request for an exemption, the licensee has the right to a hearing to contest the decision. However, the licensee must comply with all the limitations and requirements unless the Commission issues a final order which reverses the administrator's decision;

(d) The Commission notifies the originally petitioning city of requests for exemption;

(e) For this rule, "business operation" refers to basic business concepts, such as a "gift shop" or a "hotel." It does not refer to retailing practices, such as "selling alcohol only to people with rent receipts";

(f) Licensees must reapply for an exemption with each license renewal. The burden is on the licensee to convince the Commission that their business operation did not and will not contribute to the problems in the area and should be exempted from each of the limitations and requirements from which they are requesting exemption.

(10) Petitioning the Commission to Change an Alcohol Impact Area Rule. Any interested person may petition the Commission to amend or repeal an Alcohol Impact Area rule. The petitioner must follow the steps listed in OAR 137-001-0070. In a petition to amend an Alcohol

Impact Area rule, a person may ask for changes to the boundaries, limitations or requirements for the Alcohol Impact Area.

(11) Automatic Review of an Alcohol Impact Area. Twelve months after an alcohol impact area goes into effect, the Commissioners offer a public forum for comment. After considering the comments, the Commissioners may decide to initiate the rulemaking process to consider whether to continue, change or repeal the rule establishing that alcohol impact area:

(a) Before holding the public forum, the Commission makes a reasonable effort to notify:

(A) Licensees and registered neighborhood and business associations located in the alcohol impact area;

(B) Anyone who commented or testified during the original rulemaking process which established the alcohol impact area; and

(C) The city which originally petitioned the Commission.

(b) If the Commissioners initiate rulemaking after the public forum, the Commission follows the notice procedures described in section (6) of this rule.

(12) Sanction. A violation of a limitation or requirement in an alcohol impact area rule is a Category III violation.

(13) Other Commission Action. Nothing in this rule prevents the Commission from imposing additional restrictions on any license in the alcohol impact area or refusing licenses within a designated alcohol impact area if warranted by any other law or rule of the Commission.

Stat. Auth: ORS 471, including 471.040, 471.157, 471.730(5) & (6)

Stats. Implemented: ORS 471.155, 471.168, 471.311 & 471.313

Hist.: OLCC 8-1994, f. 12-23-94, cert. ef. 1-1-95; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01, Renumbered from 845-005-0057; OLCC 1-2005, f. 4-21-05, cert. ef. 5-1-05

845-005-0304

Local Government Recommendations: Requirements for Local Governments and License Applicants

(1) ORS 471.166 provides that the Commission may take into consideration a local government's timely written recommendation on initial and renewing licenses, and allows the Commission to extend by rule the time allowed a local government to render its written recommendation.

(2) If the local government has not provided a written recommendation to the Commission within the time frames allowed by Sections (5) and (6) of this rule, the Commission shall proceed as if the local government has made a favorable recommendation.

(3) The Commission requires each applicant for an initial license to provide to the local government written notice of the filing of the application. The form of the written notification shall consist of a legible copy of the Commission's Liquor License Application form for license applications, and legible copies of each Individual History form and Business Information form submitted with the license application.

(4) The applicant shall submit to the Commission a dated copy of a receipt or other appropriate dated documentation of compliance with subsection (3) of this rule, within ten days of applicant's provision of notification to the local government.

(5) Following notification by the applicant as stated in section (4) of this rule, the Commission shall allow a local government 45 days in which to provide a written recommendation to the Commission on the initial license application. However, if within 45 days of the date the applicant for an initial license gives notice to the local government, the local government files with the Commission a written request that meets the requirements of section (7) of this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the license application.

(6) The Commission provides written notice to each local government of the annual licenses in the locality that are both due to expire within three months and are subject to local

government renewal recommendations. If, within 60 days of the date the Commission has given notice to the local government, the local government files a written request with the Commission that meets the requirements of section (7) of this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the application to renew a license.

(7) The local government's written request must set forth the reason additional time is needed, state that the local government is considering making an unfavorable recommendation, and state the specific grounds being considered toward an unfavorable recommendation. Valid grounds for an unfavorable recommendation are stated in OAR 845-005-0308(3).

(8) For the purposes of this rule an unfavorable recommendation is a recommendation to deny a license or to issue a restricted license.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 471, including
471.030, 471.040, 471.730(1) & (5)

Stats. Implements: ORS 471.166

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 22-2003, f. 12-16-03, cert. ef. 1-1-04

845-005-0306

Procedures for Public Notice of License Applications

(1) The Commission will provide written notice to the public at least 14 calendar days before the Commission grants or denies:

- (a) An initial annual license;
- (b) A change of license privileges;
- (c) The addition of alcoholic beverage sales or service to an outdoor area;
- (d) A change of licensee where the Commission determines that the potential exists for problems with unlawful activities, noise or disturbances in or around the premises that are related to the sale or service of alcoholic beverages;
- (e) Any change for which OAR 845-006-0480 requires Commission

approval where the Commission determines that the potential exists for problems with unlawful activities, noise or disturbances in or around the premises that are related to the sale or service of alcoholic beverages.

(2) The Commission will provide the written notice as follows:

(a) Conspicuous notice posted on the premises proposed to be licensed;

(b) Notice to licensed child care facilities, elementary or secondary schools, places of worship, hospitals, nursing facilities, convalescent homes, parks, children-oriented recreational facilities, and alcohol and other drug rehabilitation facilities within 500 feet of the premises in urban or suburban areas and 1,500 feet in rural areas; and

(c) Notice to the neighborhood organization(s) for the area in which the proposed premises are located if the organization is recognized by the appropriate city or county and registered with the Commission. If there is no recognized organization, the Commission will notify any organization registered with the Commission that represents at least 25 households in the area.

(3) The written notice will include:

(a) Name of applicant. If applicant is not an individual, the name(s) of the person(s) who will have primary responsibility for operating the business;

(b) Address of premises proposed to be licensed;

(c) Type of license;

(d) Legal hours of operation; and

(e) How to contact the Commission within 14 days for further information about:

(A) The application;

(B) Providing information to the Commission to help determine the applicant's eligibility for a license; and

(C) Participating in the Commission's licensing process.

Stat. Auth.: ORS 471, including
471.030, 471.040, 471.730(1) & (5)
Stats. Implements: ORS 471.313
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-
01; OLCC 8-2005, f. 11-21-05, cert. ef. 12-1-05

845-005-0308**Valid Bases for Adverse Local Government Recommendations and for Commission Use of Information Received from the Public**

(1) ORS 471.166(1) authorizes the Commission to take into consideration the recommendation of the local governing body before granting or denying a license. ORS 471.166(5) requires the Commission to state by rule the valid grounds for a local governing body's unfavorable recommendation on any license application, and requires the Commission to limit valid grounds to those considered by the Commission in making an unfavorable determination on a license application.

(2) For purposes of this rule an unfavorable determination is license refusal or license restriction.

(3) For the unfavorable recommendation of a local governing body to be valid, the grounds must be found in the license refusal bases of ORS 471.313(4), ORS 471.313(5), OAR 845-005-0320, OAR 845-005-0325 or OAR 845-005-0326, or the license restriction bases of OAR 845-005-0355, and must be supported by reliable factual information.

(4) Organizations, facilities, government agencies, or individuals may give the Commission reliable factual information concerning whether there is a basis to grant or deny a license or to impose license restrictions under the laws specified in section (3) of this rule. Reliable factual information includes personal observations of activities in or around the proposed licensed location, as opposed to opinion, hearsay, feelings, beliefs or speculation.

Stat. Auth.: ORS 471, including
ORS 471.030, ORS 471.040, ORS
471.730(1) & ORS 471.730(5)
Stats. Implemented: ORS 471.166 & ORS
471.313
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0311**True Name on Application; Interest in Business**

(1) True name on application: Applications for licenses must specify the real and true names of all persons who own or have an interest in the business proposed to be licensed by the Commission, and these persons or in the case of corporations, a duly authorized officer, must sign the application.

(2) License privileges: The license privileges are available only to the persons specified in the application and only for the premises designated on the license.

(3) Interest in the business: For purposes of section (1) of this rule, the following persons have an "interest in the business":

(a) Any person who receives or is entitled to receive, directly or indirectly, any of the profits of a licensed business except persons who receive any of the profits as:

(A) A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than 25 percent of the employee's pre-bonus annual compensation, or the bonus is based on a written incentive/bonus program and is not unreasonable or out of the ordinary for the services rendered;

(B) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the business;

(C) Reasonable payment for rent under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;

(D) Reasonable payment for a franchise under a bona fide franchise agreement;

(E) Payment of dividends to corporate stockholders.

(b) A person who does not receive any of the profits but receives compensation that is out of the ordinary for the services rendered. "Out of the

ordinary” includes both over and under compensations;

(c) Any person or firm who contracts to provide food service or to manage or operate any part of the licensed premises, other than as an employee;

(d) Any person who invests money or other property in the licensed business, other than a stockholder. Any stockholder who owns ten percent or more stock must receive Commission approval (OAR 845-006-0475). For purposes of this subsection, a bona fide loan that entitles the lender to a return of only the principal and interest on the principal is not an investment;

(e) A contract purchaser of a licensed business. A contract purchaser may not operate or invest prior to Commission approval. A contract purchaser may make contract payments into an escrow account prior to Commission approval of the change of ownership, but may not operate the business other than as an employee.

(4) ORS 471.757 allows the Commission to deny, cancel or suspend a license if an unlicensable person has any financial interest in the licensed business or place of business. For purposes of ORS 471.757, financial interest exists if a person may financially benefit or suffer based on the performance of the licensed business. Examples of persons having a financial interest in the business include:

(a) Any person who rents or leases property to or for the licensed business;

(b) Any person who invests or loans money or other property for the licensed business;

(c) Any person who gives money or property for the licensed business and who

(A) Exercises control over or participates in the management of the licensed business; or

(B) Is employed by the licensed business; or

(d) The spouse or domestic partner of the licensee or license applicant. For

purposes of this rule, domestic partners are individuals who share the same regular and permanent address and who share joint financial assets, resources, accounts or obligations, such as home ownership, checking or banking accounts, brokerage accounts or health care coverage.

(5) For good cause shown, the Commission may waive the requirements in this rule to take into account unusual or extraordinary circumstances.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.757

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 9-2002, f. 6-12-02 cert. ef. 7-1-02

845-005-0312

Forms Required for License Applications

(1) As a part of the application:

(a) The applicant or applicants for a license shall submit a completed Liquor License Application form.

(b) The licensee submitting a request for approval of a change as required by Commission rules must submit a signed and dated request in writing.

(c) All individual applicants, all general partners in a limited partnership, limited partners whose investment commitment is ten percent or more of the total investment commitment, all members in a limited liability company or partnership whose investment commitment or membership interest is ten percent or greater, all directors who own or control three percent or more of the voting stock, principal officers (as defined in OAR 845-006-0475) of corporate applicants, and all natural person stockholders owning or controlling ten percent or more of the voting stock of corporate applicants will submit a completed Individual History form.

(d) All applicants will submit a statement of funding, and verification of the funding source(s). As part of

investigation under OAR 845-005-0311, Commission staff may require any applicant to submit additional financial information, including, but not limited to, a financial statement and documentation of the origination of funds.

(e) Any applicant that is a registered entity, and any registered entity that has a ten percent or greater ownership interest in an applicant-registered entity, must complete a questionnaire that lists, as appropriate, the officers, directors, shareholders, general and limited partners, or members of the entity. If a corporation has more than twenty shareholders or a limited partnership has more than twenty limited partners, only those with a ten percent or greater investment interest need be listed.

(f) The Commission requires applicants to submit Individual History forms from managers when the applicant is inexperienced or new to the industry, or when the applicant will not personally manage the premises, or when the applicant's premises has a history of problems or is located in a problem area. For purposes of this rule a manager is an individual who has the authority to act on behalf of the applicant when the applicant is not on the premises.

(2) For the purposes of this rule, a registered entity is a legal form of organization required to register as such with the Oregon Secretary of State and includes such forms as a corporation, limited liability company, limited liability partnership and limited partnership. Trusts, family trusts, and general partnerships are not registered entities for the purposes of this rule.

(3) If a legal entity applying for a license is wholly owned by another legal entity and was created in whole or in part to apply for the license, the Commission may require the parent legal entity to complete the forms and disclosures this rule requires of an applicant, and may treat the parent legal entity as an applicant for the purposes of determining eligibility for a license.

(4) The Commission's Administrator or the License Process Director may waive the requirements of this rule to take account of unusual or extraordinary circumstances. These circumstances may include the following:

- (a) Previous licensing by the Commission of the applicant;
- (b) General reputation of the applicant;
- (c) Information from other state or federal regulatory agencies that the Commission could use in lieu of the information this rule requires.

(5) ORS 471.757 allows the Commission to deny, cancel or suspend a license if an unlicensable person has any financial interest in the business or place of business. The Commission may require a personal history or fingerprints from any person who has a financial interest in the licensed business to help determine if this person is licensable.

(6) Nothing in this rule prevents the Commission from requiring additional information or information from other persons where there is reason to believe that this information may help the Commission determine the merits of a license application or to otherwise perform its statutory duties.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 471, including 471.030, ORS 471.040, ORS 471.730(1) & (5)

Stats. Implemented: ORS 471.757

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 16-2004, f. 12-22-04, cert. ef. 1-1-05

845-005-0314

Refusal to Accept an Application

(1) ORS 471.311(2) authorizes the Commission to reject any application that is not in the form required by rule. This rule defines the required form of a complete application. The Commission shall reject any application that is not in the form required by this rule. The Commission shall give applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(2) Any Commission forms, statements or

requests required as part of an application shall be completed legibly to qualify for acceptance. To be legible as required by this rule, a form, statement or request must be signed and dated by the applicant and made or completed:

- (a) In the English language;
- (b) By typing or by printing that is clearly legible to Commission staff.

(3) Any floor or plot plan sketches required by this rule shall be completed legibly in ink on the Commission's Floor Plan form, be reasonably to scale and set forth in a manner that allows a person unfamiliar with the property to understand the general layout of the premises, and the boundaries and uses of areas proposed to be licensed.

(4) A complete application shall include any forms, statements or requests required by OAR 845-005-0312, all fully completed and signed and dated.

(5) A complete application shall include disclosures and documentation regarding parties with ownership or financial interest as defined by OAR 845-005-0311 as follows:

- (a) Documentation of funding sources described on the Statement of Funding form. For instance, if funding is from a bank loan, documentation may be a copy of the loan agreement or the bank's written verification of loan commitment. Commission staff may require further documentation in the course of license investigation;
- (b) Lease summary form(s) if the applicant is leasing the real property, equipment, furnishings or business at the location proposed to be licensed;
- (c) Purchase agreement summary form(s) if the applicant is buying the real property, equipment, furnishings or business at the location proposed to be licensed and, if the purchase transaction has not been closed, a copy of the applicant's accepted earnest money agreement;
- (d) Franchise agreement summary form if the applicant is or will be a franchisee at the location proposed to be licensed;
- (e) If the applicant is not an individual, but is a registered entity as defined in

OAR 845-005-0312(2) (for instance a corporation, a limited partnership, a LLC) and registered as such with the Oregon Secretary of State, a copy of such registration and a completed form showing the individuals and persons who are the owners, principals, directors, officers, trustees, investors, members or partners in the applicant registered entity.

(f) If any owner, member or partner with a 10% or greater ownership interest in the applicant registered entity is itself a registered entity, the applicant shall provide a completed form showing the individuals and persons who are the owners, principals, directors, officers, trustees, investors, members or partners in that registered entity.

(6) A complete application shall include documentation and disclosures that record how the applicant proposes to operate the licensed business, and demonstrate the applicant's qualification for a liquor license, as follows:

- (a) Floor or plot plan sketch showing the areas proposed to be licensed for any Full or Limited On-Premises Sales license or Brewery Public House license, including identification of table seating that meets the dining seating requirement of OAR 845-006-0460 or 845-006-0461 if the application is for a Full On-Premises license;
- (b) Floor or plot plan sketch showing the proposed on-premises alcohol service or consumption areas of any manufacturer's licensed premises;
- (c) Operating data questionnaire form if the applicant will sell alcoholic beverages at retail;
- (d) Food service proposal form if the application is for a license or privilege that requires food service to patrons at the licensed premises;
- (e) All supporting documents required as attachments to the Commission's food service proposal form;
- (f) If the application is by a private club for a Full On-Premises Sales license, a

copy of the club's charter and copies of documentation of current dues-paid club membership of 200 or more members with voting rights in the affairs of the club.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stat. Implemented: ORS 471.311(2)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2002, f. 2-15-02 cert. ef. 3-1-02; OLCC 1-2005, f. 4-21-05, cert. ef. 5-1-05

845-005-0315

Applications: Refusal to Process

(1) ORS 471.155 requires certain licensees to post a bond or the equivalent to guarantee payment of privilege taxes, and allows the Commission to require a license applicant to get a recommendation from the local governing body. ORS 471.168 and OAR 845-005-0400 require certain licensees to maintain liquor liability insurance or a liquor liability bond. ORS 471.311(1) requires an applicant to provide pertinent information.

(2) After accepting an application, Commission staff must obtain additional information and documentation from the applicant in order to investigate and process the application. The Commission may refuse to process an application if:

(a) The applicant for an initial license has not submitted to the Commission proof of having provided notice of license application to the local government as required by OAR 845-005-0304(3) and (4).

(b) The applicant for license renewal when subject to a local government recommendation as provided by ORS 471.166(3) and OAR 845-005-0360, has not paid to the local government the fee set by the local government as authorized by ORS 471.166(7) and (8).

(c) The applicant who is subject to the bonding requirements of ORS 471.155(1) has failed to post a tax bond or the equivalent as required.

(d) The applicant who is subject to the liquor liability insurance requirements of OAR 845-005-0400 has failed to

obtain or maintain liquor liability insurance or bond as required.

(e) The applicant neglects or refuses to provide in a timely manner any document or other information the Commission reasonably requests.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & (5)

Stat. Implemented: ORS 471.311(1), ORS 471.155; 471.313 & ORS 471.168.

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2002, f. 2-15-02 cert. ef. 3-1-02

845-005-0320

License Refusal Reasons that Can Not be Overcome

The following criteria will preclude issuing a license:

(1) The applicant has or would have an interest in another liquor business that ORS 471.313(3), 471.394, or 471.396 prohibits.

(2) The applicant seeks a license or sales authority that requires food service and is unable to show the applicant will comply with the food service requirements set by the rules of the Commission.

(3) The applicant seeks a Full On-Premises Sales license as a commercial establishment as defined in ORS 471.001(2) and will not be open to the public to the extent Commission rules require.

(4) The applicant seeks a Full On-Premises Sales license as an "other public location" as allowed by ORS 471.175(2)(d) and will not allow public access to its premises.

(5) The applicant seeks a Full On-Premises Sales license as a private club as allowed by ORS 471.175(2)(a) and the applicant has fewer than 200 members or has been chartered for less than one year. "Member" means an individual with voting rights and privileges in the private club equal to any other individual in the club whose club dues are fully paid on the date upon which membership is counted.

(6) The applicant is a retail sales agent of the Commission with a contract for an exclusive agency or seeks to exercise the license privileges in an exclusive sales agent's premises.

(7) The applicant fails to successfully

complete an approved Alcohol Server Education Course as ORS 471.542 and the Commission rules require.

(8) The applicant has not paid an outstanding fine to the Commission. ORS 471.313(4)(g) allows the Commission to deny a license if the applicant had a poor compliance record when previously licensed. Nonpayment of a fine is one indicator of a poor compliance record.

(9) The applicant who is subject to the bonding requirements of ORS 471.155(1) has failed to post a tax bond or the equivalent as required.

(10) The applicant who is subject to the liquor liability insurance requirements of OAR 845-005-0400 has failed to obtain or maintain liquor liability insurance or bond as required.

(11) The applicant for an initial license has not completed Commission-given law orientation.

Stat. Auth.: ORS 471, including
ORS 471.030, ORS 471.040,
471.730(1) & (5)

Stats. Implemented: ORS 471.313 & ORS
471.168

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-
01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02

845-005-0325

License Refusal Reasons: Applicant Qualifications

If any of the following criteria apply, the Commission will deny a license unless the applicant shows good cause that overcomes the criterion involved:

(1) The applicant has inadequate financial resources to build or operate the licensed premises as proposed, or has inadequate financial resources to meet the financial obligations of the licensed business. This section does not apply to license renewal applications.

(2) The applicant has not built the licensed premises, or has not operated the licensed business, substantially as proposed by the applicant and previously approved by the Commission.

(3) The applicant can not or will not provide an employee who can communicate effectively with customers and Commission regulatory employees. This person must be on the

licensed premises during the licensee's business hours. Communicate effectively means:

(a) Knowing how to lawfully sell and serve alcoholic beverages and communicating this to customers;

(b) Understanding Commission regulatory employees when the employees explain lawful sale and service of alcoholic beverages and responding in a way the employee understands.

(4) Alcohol or Controlled Substance History or Record:

(a) The applicant has a recent history or record of using alcohol or controlled substances to excess. Some of the types of records the Commission uses to establish a record of using to excess include court, Motor Vehicles Division, police, or medical records;

(b) Good cause to overcome this criterion is a showing by the applicant that the applicant no longer uses alcohol or controlled substances to excess and is not likely to do so in the future. Some of the factors the Commission considers in determining good cause are: successful participation in treatment program(s), counselor, employer or probation officer recommendations, severity of the applicant's record, passage of time since last relevant incident and previous record of compliance.

(5) The applicant has been convicted of a felony when there is a relationship between the facts that support the conviction and applicant's fitness to exercise the license privileges. When there is a relationship between the applicant's fitness and the felony, the Commission considers any intervening circumstances since the commission of the crime in determining whether the applicant is an acceptable future compliance risk.

(6) The applicant provides material false or misleading information to the Commission.

(7) The applicant is not at least 21 years old. Good cause to overcome this criterion includes a showing by the applicant that the minor applicant will not participate in the management

or control of alcohol-related business decisions or of employees involved in alcoholic beverage sale or service.

Stat. Auth.: ORS 471, including
ORS 471.030, ORS 471.040, ORS
471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.313, ORS
183

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0326

License Not Demanded by Public Interest or Convenience

ORS 471.313(1) allows the Commission to deny a license that public interest or convenience does not demand. The following are some of the public interest or convenience reasons for which the Commission may deny a license unless the applicant shows good cause to overcome the criteria:

(1) Alcohol-Related Problems at Other Licensed Premises:

(a) The applicant has had repeated problems at another licensed location during the two years preceding this application or has had a license canceled or renewal refused because of problems with disturbances, lewd or unlawful activities or noise. These problems:

(A) Must occur on the licensed premises or be caused by patrons in the immediate vicinity of the licensed premises;

(B) Include, but are not limited to, obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol-related litter; trespassing on private property; and public urination; and

(C) Must be related to the sale or service of alcohol under the exercise of the license privileges.

(b) Good cause to overcome this criterion is a showing by the applicant that the applicant will reasonably control all of the applicant's licensed premises to prevent problems described

in paragraphs (1)(a)(A), (B), and (C) of this rule. Factors that affect this good cause determination may include, but are not limited to:

(A) Applicant is currently licensed at an outlet that has not had the problems described in paragraphs (1)(a)(A), (B), and (C) of this rule in the past year;

(B) Applicant successfully regained control of premises that had problems described in paragraphs (1)(a)(A), (B), and (C) of this rule;

(C) Applicant has a corrective plan that is likely to be effective;

(D) License conditions or restrictions would enable control of applicant's premises; and

(E) Applicant did not participate in the daily operation of the problem outlet, and there has not been a pattern of problems described in paragraphs (1)(a)(A), (B), and (C) of this rule at other outlets where applicant has been licensed.

(c) This criterion does not apply to renewal applications.

(2) Proximity to Facilities:

(a) The licensed premises:

(A) Will be located within 500 feet in urban or suburban areas or within 1,500 feet in a rural area of the boundary (measured property line to property line) of a licensed child care facility or elementary or secondary school; a church; a hospital, nursing care facility or convalescent care facility; a park or children-oriented recreational facility; and alcohol and other drug treatment or rehabilitation facility; and

(B) Will adversely impact the facility.

(b) Good cause to overcome this criterion includes, but is not limited to, a showing by the applicant that:

(A) The proposed operation is consistent with the zoning where the proposed premises will be

located, is consistent with the general character of the area and the adverse impact will not unreasonably affect the facility; or
 (B) The size of the proposed premises' community is so small that the proposed location is a reasonable location for the proposed operation.

(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.

(3) Problem Areas:

(a) The licensed premises will be located in an area that has a history of serious or persistent problems with unlawful activities, noise or disturbances. These problems need not be alcohol-related;

(b) Good cause to overcome this refusal basis includes, but is not limited to, a showing by the applicant that:

(A) Alcoholic beverage sale or service at the premises will not contribute to the problems, and

(B) The applicant has a willingness and ability to control the proposed premises and patrons' behavior near the licensed premises. When assessing the applicant's willingness and ability, the Commission will consider factors including but not limited to the applicant's relevant experience, and the applicant's reasonable and credible operating and security plans.

(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.

(4) Off-Premises Sales License: The applicant seeks an Off-Premises Sales license at an outlet that sells petroleum products and does not or will not maintain a wide variety of grocery items available for immediate sale. "Wide variety" means an inventory at a cost to the applicant of not less than \$5,000 of foods that satisfy the general public's ordinary eating habits and personal and household products. "Wide variety"

does not include alcoholic beverages or tobacco products. It also does not include snack food items that exceed ten percent of the inventory's value.

(5) Licensed physician or other professional evaluations of the applicant or any on-premises manager's mental, emotional or physical condition that show incompetence or physical inability to manage the business the applicant wants licensed. ORS 471.313(4)(b) allows the Commission to deny a license if the applicant is incompetent or physically unable to manage the business the applicant wants licensed. These evaluations are some indicators of this incompetence or physical inability.

(6) There is a final order of a court or administrative agency in a criminal or civil proceeding finding that the applicant failed to comply with the liquor laws of this or any other state. ORS 471.313(4)(d) allows the Commission to deny a license if the applicant has violated liquor laws. These final orders are some but not the only indicators of liquor law violations.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.313

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2001, f. 12-18-01, cert. ef. 1-1-02; OLCC 12-2004, f. 10-15-04 cert. ef. 11-1-04

845-005-0327

Applicant not an Acceptable Future Compliance Risk

(1) ORS 471.313(1) allows the Commission to deny a license that public interest or convenience does not demand. ORS 471.313(4) and OAR 845-005-0325 specify license refusal bases related to the applicant's personal qualification for a license. The matrix at section (6) of this rule is the decision-making tool the Commission uses in lieu of using any of the following license refusal bases individually: ORS 471.313(4)(b) - false statements to the Commission. ORS 471.313(4)(d) - convicted of felony or violating a liquor law in Oregon. OAR 845-005-0325(4) - record or history of using alcohol or controlled substances to excess. OAR 845-005-0325(5) - felony conviction. OAR 845-005-0325(6) - false or misleading information to the Commission. An incident or conviction that is relevant under the matrix may also be relevant

under a license refusal law or rule that is outside the matrix. In such a case, the Commission may choose to evaluate such an incident or conviction directly under the applicable provision that is outside the matrix.

(2) An individual who receives a total of ten or more points under the matrix in section (6) of this rule is not an acceptable liquor law compliance risk. If an individual receives ten or more points under the section (6) matrix, the Commission shall deny the license application as to that individual, except as provided in this rule.

(3) Points stated in the section (6) matrix of this rule are assigned for each separate conviction or incident. Where more than one such row would be applicable based on a single incident, such as hit-and-run when intoxicated, only the highest points of a single row shall be counted.

(4) The Commission shall not count points assigned to an individual through the section (6) matrix if:

(a) At the time of the incident or conviction giving rise to the points, the individual had a medically diagnosed disability, which diagnosis was made prior to or as the result of the incident or conviction; and

(b) The individual has released to the Commission the diagnosis, and a certificate or statement from the physician or treatment provider that the individual has completed or is actively involved in a state-certified treatment program for controlled substance or alcohol abuse, and is following treatment recommendations; or, for other medically diagnosed disabilities, the individual has released to the Commission the diagnosis, and a certificate or statement from the physician or treatment provider that the individual is receiving treatment, as appropriate, and is following any treatment recommendations; and

(c) Where addiction to a substance is the basis of the disability, the individual has not used or consumed the substance within 24 months of the date of the license application, and the

individual has met all other licensing requirements of the Commission, the Commission may issue the individual a license expressly conditioned on the individual's continued abstinence from using or consuming the substance. Use or consumption of said substance shall be grounds for immediate cancellation of the license.

(5) As used in this rule,

(a) "Conviction" includes a plea of no contest. Time passage after a conviction is counted from the date of conviction or the date the individual is released from custodial supervision, whichever date is later, to the date of the current liquor license application filing.

(b) Time passage after an incident not resulting in a conviction is counted from the incident date to the date of the current liquor license application filing.

(c) "Material fact" means any fact which would affect application of this rule.

(6) Matrix:

(a) Felony Conviction: Driving while suspended or any crime involving violence or the threat of violence, alcohol, or controlled substances. Points: Under 4 years -10 points; From 4 to 6 years - 7 points; From 6 to 12 years - 4 points.

(b) Misdemeanor Conviction for any crime involving, or resulting from use of, alcohol or controlled substances, or incident of violence or unlawful behavior involving, or resulting from the use of, alcoholic beverages or controlled substances. Points: Under 4 years - 5 points; From 4 to 6 years - 3 points; From 6 to 10 years - 1 point.

(c) Driving under the influence of intoxicants or while intoxicated or impaired unless found not guilty. Time passage is from date of incident. Points: Under 2 years - 6 points; From 2 to 4 years - 5 points; From 4 to 6 years - 4 points; From 6 to 8 years - 3 points;

From 8 to 12 years - 2 points; From 12 to 20 years - 1 point.

(d) Intentional Misrepresentation or Omission of Material Fact to OLCC. Points: Current application - 10 points; Under 1 year - 6 points; From 1 to 5 years - 4 points.

Stat. Auth.: ORS 471, including 471.030; 471.040 & 471.730(1), (2) & (5)

Stats. Implemented: ORS 471.311, 471.313 & 471.315

Hist.: OLCC 3-2003, f. 3-31-03 cert. ef. 4-1-03

845-005-0331

Licensing Exterior Areas

(1) The Commission shall refuse to license an exterior area unless the applicant shows good cause that outweighs the refusal basis. The following sections of this rule state the refusal reasons that apply to exterior areas.

(2) The applicant or licensee requests licensing of an area controlled by the local governing body, and the local governing body has not approved the use proposed by the applicant or licensee.

(3) The exterior area proposed to be licensed is not adjacent to the licensees existing or the applicants proposed licensed premises.

(4) The applicant or licensee fails to demonstrate there will be adequate supervision of the area so as to prevent violations of the liquor laws.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.313 & ORS 471.175(1)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0332

Tour Boat License

(1) ORS 471.182 allows the Commission to issue a Full On-Premises Sales license to a tour boat owner or operator. The statute also allows the Commission to waive a regulation for a tour boat operator or owner that would otherwise apply to a commercial establishment.

(2) The Commission may allow more than

one tour boat to be operated under one Full On-Premises Sales license if:

(a) The licensee owns or leases the tour boats. The Commission does not license a tour boat operator's agent or representative;

(b) Each boat is a "tour boat" as defined by ORS 471.182(2)(c);

(c) The licensee notifies the Commission in writing at least 10 days before adding an additional tour boat to be operated under the license;

(d) The licensee meets all applicable licensing criteria.

(3) Requirements for boats that will be in Oregon waters 90 days or less in a calendar year:

(a) Law Orientation. The applicant or legal representative must attend an OLCC Law Orientation Class.

(b) Server Education. The applicant or designee, as defined in OAR 845-009-0075, must successfully complete an approved Alcohol Server Education Course.

(c) Service Permits. Except for those covered by subsection (3)(b), the Commission waives the service permit requirement for alcohol servers and for those who supervise the sale or service of alcohol. However, the applicant, licensee or Server Education designee must ensure that all alcohol servers, and those who supervise the sale of service of alcohol, read the OLCC brochure, What Every Volunteer Alcohol Server Needs to Know.

(d) Minor Postings. The Commission generally does not assign minor postings. However, the Commission instructs tour boat licensees that minors must not be in areas with drinking environments during the hours that drinking predominates.

(4) Requirements for boats that will be in Oregon waters over 90 days in a calendar year:

(a) Law Orientation. The applicant or legal representative must attend an OLCC Law Orientation Class.

(b) Server Education. The applicant or designee, as defined in OAR 845-009-

0075, must successfully complete an approved Alcohol Server Education Course.

(c) Service Permits. The licensee, applicant, or Server Education designee must ensure that all employees engaged in the sale or service of alcohol, or supervising the sale or service of alcohol, have a service permit.

(d) Minor Postings. The Commission assigns minor postings according to the Minor Posting rule, OAR 845-006-0340.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.182

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02

845-005-0336

Certificate of Authority Holder's Sales Employees

For the purposes of ORS 471.162(3), a Certificate of Authority holder is a licensee of the Commission authorized to sell and ship malt beverages and wine to licensed Oregon wholesalers. Employees of a Certificate of Authority holder may sell alcoholic beverages on the employers behalf to licensed Oregon wholesalers.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.162(3)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0340

Additional Criteria for Full On-Premises Licenses

(1) ORS 471.175 allows the Commission to grant the Full On-Premises Sales license to the following types of businesses:

- (a) Private clubs;
- (b) Certain public passenger carriers;
- (c) Commercial establishments;
- (d) Public locations, other than those described in (a) to (c) of this section; and
- (e) Caterers.

(2) To qualify for a Full On-Premises Sales license, the applicant must show in writing specifically how the applicant will comply with the food service rules of the Commission for the business type as stated in section (1) of this rule or, if the applicant will operate more than one such type of business at a business location, for the types of business the applicant will operate, and receive Commission approval of the proposal. Those food service rules are found at OAR 845-006-0460 through 006-0468.

(3) The applicant for a Full On-Premises Sales license at a lodging facility that does not meet the food service standards of OAR 845-006-0460 for a commercial establishment must operate at least 100 guest rooms and have banquet facilities for at least 100 patrons at the location proposed to be licensed, and meet the food service requirements of OAR 845-006-0464(3).

(4) This rule does not apply to renewal applications.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.175

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0355

Restricting License Privileges and Conduct of Operations

(1) The Commission may restrict a license or service permit when:

(a) In the absence of a restriction, the Commission has a basis to cancel, suspend/fine or deny the license or service permit;

(b) In addition to all or part of a suspension or fine, a restriction may prevent the recurrence of the problem(s) that caused the violation(s); or

(c) The Commission determines that a restriction is in the public interest or convenience.

(2) In determining public interest or convenience reasons to restrict a license or permit, the Commission considers factors that include but are not limited to:

(a) The character or environment of

the neighborhood in which the licensed premises operate;

(b) The need to eliminate or prevent conditions that have contributed to or that the Commission reasonably believes will contribute to liquor or criminal law violations by the licensee, patrons of the licensed premises or the public; or

(c) The need to limit the availability of alcohol to minors, visibly intoxicated persons or street drinkers.

(3) The Commission has determined that it is not in the public interest or convenience to issue or renew:

(a) A license that allows off-premises sales in an area frequented by street drinkers, unless the Commission restricts the sales of the alcoholic beverages associated with street drinkers;

(b) A license to a relative or associate of a person whose license was cancelled, surrendered or not renewed because of problems at the premises that involved the person, unless the Commission restricts the relative or associate from permitting the person from being on the premises;

(c) A license or permit to a person who has a recent history or record of alcohol or drug problems, unless the Commission requires the person to complete an alcohol/drug treatment program and follow the program's recommendations regarding alcohol/drug use or to abstain from alcohol/drug use.

(4) When the Commission restricts a license or service permit, it notifies the licensee or permittee. If the licensee or permittee disagrees with the restriction, the licensee or permittee has the right to a hearing under the procedures in ORS chapter 183; OAR chapter 137, division 003; and OAR chapter 845, division 003.

(5) A licensee or permittee who has a restricted license or permit must exercise license or permit privileges only in compliance with the restriction(s). Failure to comply with the restriction(s) is a Category I violation.

(6) A restriction remains in effect until the Commission removes it. The licensee or permittee may ask the Commission to remove or modify a restriction. The written request must explain why the licensee or permittee believes the Commission should remove or modify the restriction. The Commission will notify the licensee or permittee, in writing, of its decision to approve or deny the request and the basis for its decision. If the Commission denies the request, the licensee or permittee has the right to a hearing under the procedures in ORS chapter 183; OAR chapter 137, division 003; and OAR chapter 845, division 003.

(7) As used in subsections (2)(c) and (3)(a) of this rule, "street drinkers" means people who drink unlawfully in streets, alleys, parks and other similar public places.

(8) As used in subsection (2)(b) of this rule, "conditions" means conditions in the immediate vicinity of the premises that are related to the exercise of the license privileges and conditions in the premises or in the areas around the premises that the applicant/licensee controls.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & (5)

Stats. Implemented: ORS 471.030, ORS 471.040, ORS 471.405(1), ORS 471.730(1) & (5)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 6-2001, f. 8-15-01, cert. ef. 9-1-01; OLCC 7-2006(Temp), f. & cert. ef. 6-15-06

845-005-0360

License Renewal: Requirements for Applicants

(1) Filing a Renewal Application:

(a) Any licensee who files a completed renewal application with the Commission at least 20 days before the date the license expires may continue to operate as if the license were renewed, pending a decision by the Commission;

(b) Any licensee who does not file a completed renewal application at least 20 days before the existing license expires must stop selling or serving alcoholic beverages when the license expires. However:

- (A) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee that ORS 471.311(3) requires, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission;
- (B) A licensee must not sell or serve alcoholic beverages after the license expires; a violation of this subsection is a Category III violation. If the Commission receives a completed license renewal application within 30 days after the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee that ORS 471.311(3) requires, issue a letter of authority to resume operation, pending a decision by the Commission.
- (c) The Commission will not renew a license if the Commission receives the renewal application more than 30 days after the license expires. A person who wants to resume selling or serving alcoholic beverages in this circumstance:
- (A) Must submit a completed new application, including the documents and information required by the Commission.
- (B) Must not sell or serve alcoholic beverages unless and until they receive authority to operate from the Commission after submitting the completed new application.
- (d) A person relicensed under section (1)(c) of this rule who sold or served alcoholic beverages in violation of section (1)(b)(B) of this rule is subject to administrative sanctions.
- (e) A person who sells or serves alcoholic beverages without a liquor license is in violation of ORS 471.475, a misdemeanor, and is subject to criminal prosecution.
- (f) For purposes of this rule, a completed application is considered filed or received according to its postmark date, if legible, or according to the date the Commission actually receives the completed application, whichever is earlier.
- (2) Completed Application: As used in this rule, a completed application is one that is completely filled out, is signed by the applicant and includes the appropriate fee(s), the bond or equivalent that ORS 471.155 requires and the liquor liability insurance or bond that ORS 471.168 and OAR 845-005-0400 require.
- (3) Local government body recommendation. The Commission requires all applicants seeking renewal of Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, and Brewery-Public House licenses to acquire the recommendation of their local governing body, and pay to the local governing body all fees as established by ORS 471.166(7) and (8).
- (4) Late Renewal Fee:
- (a) ORS 471.311(3) requires the Commission to charge a late fee for renewal applications received less than 20 days before the license expires or not more than 30 days after the license expires. In computing this 20 or 30 day period, the Commission does not count the day the license expires. For example, a license expires on the 31st. The 20 day period ends on the 11th unless the 11th is a Saturday, Sunday or legal holiday. If the 20th or 30th day is a Saturday, Sunday or legal holiday, the period ends at 5 p.m. on the first working day after the Saturday, Sunday or legal holiday;
- (b) The Commission may waive the late renewal fee if the licensee fails to file a timely application due to unforeseen circumstances, such as a death or illness of the licensee or to a delay in Commission processing of the application through no fault of the licensee.

Stat. Auth.: ORS 471, including

ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.155, ORS 471.311(3), ORS 471.311(4), ORS 471.311(5), ORS 471.313, & ORS 471.168

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 1-2001, f. 2-14-01, cert. ef. 2-19-01 thru 8-17-01; OLCC 7-2001, f. 8-15-01, cert. ef. 8-18-01

845-005-0365

Change of Licensee; Change of Location

(1) The Commission may allow a change of licensee at a licensed business. The proposed new owner must apply for a new license.

(2) The Commission may allow a change of location of a licensed operation. The licensee must apply for a new license for the new location.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.313, ORS 471.292(1)(e) & ORS 471.292(2)(d)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0366

License Surrender

A licensee may ask the Commission to accept the surrender of a license. The license remains in effect until the Commission accepts the surrender. If the Commission accepts it, the Commission will notify the licensee of the date the Commission accepts the surrender. The licensee must stop selling or serving alcoholic beverages from this date through the remainder of the licensing period. If the licensee wants to sell or serve alcoholic beverages after this date, the licensee must apply for and receive a new license.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.030 & ORS 471.292

Hist.: OLCC 17-1991, f. 10-31-91, cert. ef. 1-1-92; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01, Renumbered from 845-005-0066

845-005-0400

Liquor Liability Insurance or Bond Requirement

(1) ORS 471.313(4)(i) requires applicants

for a liquor license to demonstrate financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed. ORS 471.313(2) requires applicants listed in ORS 471.168 to maintain liquor liability insurance or bond. In addition to other requirements, the Commission has determined that licensees listed in ORS 471.168 must demonstrate financial responsibility for licensees' liability for damages to third parties caused by patrons off the licensed premises by meeting the requirements in section (1)(a) or (b) of this rule. ORS 471.168 requires certain licensees to provide coverage for injuries suffered because of the conduct of visibly intoxicated persons who were served in licensed premises by:

- (a) Maintaining liquor liability insurance of not less than \$300,000; or
- (b) Maintaining a bond with a corporate surety authorized to transact business in this state in the amount of not less than \$300,000.

(2) The requirement applies to the covered licenses issued or renewed on or after March 15, 1998.

(3) ORS 471.168 also requires licensees subject to the requirement to supply proof of compliance at the time the license is issued or renewed. For insurance, licensees must provide proof by naming the Commission as Certificate Holder on the policy and giving the Commission a copy of the certificate. For a bond, proof may be satisfied by identifying the name of the surety and providing the bond identification number.

(4) Failure to maintain insurance or a bond as required is a Category I violation and the Commission may cancel the license.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.313(4)(i) & ORS 471.168

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0405

Full or Limited Licensee Small-Scale Private Catering

(1) ORS 471.184(1) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license to serve the alcoholic beverages

permitted by the license for on-premises consumption when catering temporary events at locations other than the licensed premises where the licensee will furnish food and beverage services for no more than 100 guests of the catering client. This rule refers to this type of catering as small-scale private catering.

(2) For purposes of this rule, small-scale private catered events are events where:

- (a) There is a contract between a client and the licensee to provide food service for a specific number of guests or participants;
- (b) The licensee is not the client;
- (c) Beverage service is in conjunction with food service; and
- (d) The catered event must not be of more than one days duration unless it is a closed conference or seminar.

(3) ORS 471.184(1) authorizes the Commission to grant to qualified licensees general pre-approval of all future small-scale private catering.

(4) The licensees application for general pre-approval for future small-scale private catering shall be made in writing and include:

- (a) A plan for managing patronage by minors;
- (b) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section;
- (c) Identification of any proposed catering location that is owned or controlled by the licensee; and
- (d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462;
- (e) Identification of premises proposed to be licensed if the request is for specific future events.

(5) The Commission may deny, cancel or restrict temporary off-premises license use for small-scale private catering for any reason for which the Commission may deny, cancel or restrict a regular license.

(6) General pre-approval shall not include approval of any event of more than one days duration except as allowed by section (2)(d) of this rule, or approval of small-scale private

catering at a particular location more than one day per week. For the purposes of this rule a day is from 7:00 am until 2:30 am on the succeeding calendar day.

(7) Full On-Premises Sales or Limited On-Premises Sales licensees may engage in small scale private catering without having received general pre-approval if the licensee first has given the Commission specific written notice of each event, which notice is received by the Commission within five calendar days of the event and includes the event date, duration, expected attendance, exact location, and a description of the type of event.

Stat. Auth.: ORS 471, including
ORS 471.030, ORS 471.040, ORS
471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.184

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0410

Full or Limited On-Premises Sales Licensee Temporary License Use at Other Locations

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages on premises that the Commission has not licensed. ORS 471.405 establishes a prohibition on the sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages.

(2) ORS 471.184(2) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license to serve the alcoholic beverages permitted by the license for on-premises consumption at temporary events at locations other than the licensed premises after having obtained prior written Commission approval.

(3) Except for private, large-scale catered events, licensees must apply in writing, using the Commission form provided for this purpose. The Commission may reject any application which is not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(4) For purposes of this rule, private large-

scale catered events are events that are not open to the general public, are catered for more than 100 guests or participants, have a contract between the client and the licensee to provide food service for a specific number of guests or participants, beverage service is secondary to and in conjunction with food service at the event, the licensee is not the client, and the catered event is not of more than one days duration unless it is a closed conference or seminar.

(5) Despite section (4) of this rule, a large-scale catered event that otherwise qualifies under section (4) standards may be open to the general public if the purpose of the event is fund raising for a charitable or non-profit organization that is registered as such with the Secretary of State.

(6) A licensee who does not have general pre-approval for private large-scale events must apply for approval for each event as required by section (11) of this rule.

(7) The Commission may grant general pre-approval for private, large-scale catered events such as weddings, receptions, conferences, company picnics and parties, and company sponsored events. The application for Commission approval shall be in writing and consist of:

- (a) A brief description of the types of events to be catered;
- (b) A control plan for managing patronage by minors and alcohol consumption by adults;
- (c) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section;
- (d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462.

(8) For large-scale catered events at which more than 500 guests are expected, the licensee shall give the Commission at least five days advance written notice of the event. The notice must include the event date, duration, expected attendance, exact location, and a description of the type of event.

(9) The Commission may deny or revoke general pre-approval according to the criteria of sections (12) and (13) of this rule.

(10) Applications that are not for general

pre-approval shall be submitted as required by section (11) of this rule. Licensees shall submit separate written applications for events at different locations, and for events at the same location that are not substantially similar with regard to entertainment, alcohol sales emphasis, minor patronage, extent of licensed premises, and hours of proposed alcohol sales and consumption.

(11) The licensees application shall include:

- (a) A control plan for managing patronage by minors and alcohol consumption by adults;
- (b) Identification of all individuals to be employed by the licensee to manage the premises proposed for license authority;
- (c) Identification of the premises proposed to be licensed;
- (d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;
- (e) If the applicant holds a Limited On-Premises Sales license, a statement of the type of food service to be offered and the proposed hours of food service;
- (f) If the applicant is a Full On-Premises Sales licensee, a written proposal showing compliance with the food service standards of OAR 845-006-0462;
- (g) The recommendation of the local governing body or police department where the licensee proposes to use license authority; and
- (h) Processing fee established by Commission rule.

(12) The Commission may deny approval for any of the following reasons:

- (a) The Commission concludes the licensees off-premises license use constitutes an on-going business operation;
- (b) The local governing body where the licensee proposes to use license authority recommends denying the request and the reason for the deny recommendation is supported by facts and consistent with the licensing

standards of the Liquor Control Act and the Commissions rules, practice and policy;

(c) There is a basis under ORS 471.313, ORS 471.315, or the rules of the Commission to deny renewal of, suspend, fine or cancel any liquor license held by the applicant in this state;

(d) The Commission concludes, based on the licensees compliance record, recent record of problems at licensed premises, or the licensees proposal, that the licensee is unwilling or unable to control temporary off-premises events adequately;

(e) The application is for a premises that currently holds a liquor license and that premises has been the location of temporary events, authorized under this section, for five or more days within the prior 12 months;

(f) The application is for license authority at a licensed premises that currently holds the same type of liquor license as is held by the applicant;

(g) The application is made by a Full On-Premises Sales licensee for use at a location licensed for Limited On-Premises Sales or is for use at a premises that currently holds a Full On-Premises Sales license and the applicant will not comply with the food service standards of OAR 845-006-0460;

(h) The application is for use at a licensed location where the license is currently suspended.

(13) The Commission may revoke approval for any of the grounds under which the Commission may deny renewal of a license.

(14) The Commission may authorize off-premises license use for no more than five days at a particular location. The Commission may grant additional authority for five or fewer days if the licensees management of the event shows the licensee continues to be an acceptable compliance risk at the location.

(15) Commission staff investigates non-routine applications for off-premises license use. Non-routine applications include those that

propose electronically amplified entertainment, a drinking environment as defined in OAR 845-006-0340(8), an operation that staff concludes requires employment of security personnel, or that has not received an unqualified grant recommendation from the local governing body or its delegated department. Commission staff assesses each application to determine if it is routine or non-routine. Applications must be submitted enough in advance of the event date to allow staff to assess and investigate.

(a) The Commission may refuse to process any routine application not submitted at least five business days in advance of the proposed event date.

(b) The Commission may refuse to process any non-routine application not submitted at least fifteen business days prior to the proposed event date if the applicant will operate a drinking environment as defined by OAR 845-006-0340(8).

(c) The Commission may refuse to process any non-routine application not submitted at least twenty-five business days prior to the proposed event date, if prior to the submission of the application, Commission staff provide notice to the applicant or the applicants representative that staffs investigation will include assessment of public safety or neighborhood impact matters, or the risk of disturbances or liquor law violations at the location proposed to be licensed.

(16) Submission of an application within the time lines stated in section (15) of this rule does not guarantee the Commission will have the resources to complete investigation of the application prior to the applications requested date(s).

(17) Alcohol servers at locations licensed under this rule must hold valid service permits.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.184(2)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0415

Special Event Winery and Special Event Grower Sales Licenses

(1) ORS 471.223 authorizes the Commission to issue a Special Events Winery license to a Winery licensee. The special license may allow the licensee to sell wine and cider at retail for consumption on or off the licensed premises at a location other than that designated as the winery's licensed premises for a period not to exceed five consecutive days.

(2) ORS 471.227 authorizes the Commission to issue a Special Events Grower Sales license to a Grower Sales Privilege licensee. The special license may allow the licensee to sell wine and cider at retail for consumption on or off the licensed premises at a location other than that designated as the grower's licensed premises for a period not to exceed five consecutive days.

(3) Any special license application shall be made in writing and include:

(a) A control plan for managing patronage by minors and alcohol consumption by adults;

(b) Identification of the individuals to be employed by the licensee to manage events applied for under this section;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, extent of expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) License fees as established by ORS 471.311.

(4) Applicants must apply in writing using the Commission form provided for this purpose. The Commission may reject any application not completed fully and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case

proceedings under ORS 183.310 to 183.550.

(5) The Commission may deny, cancel or restrict a special license for any reason for which the Commission may deny, cancel or restrict a regular license.

(6) Commission staff investigates non-routine applications for special licenses. Non-routine applications include those that propose electronically amplified entertainment, a drinking environment as defined in OAR 845-006-0340(8), an operation that staff concludes requires employment of security personnel, or that has not received an unqualified grant recommendation from the local governing body or its delegated department. Commission staff assesses each application to determine if it is routine or non-routine. Applications must be submitted enough in advance of the event date to allow staff assessment and investigation.

(a) The Commission may refuse to process any routine application not submitted at least five business days in advance of the proposed event date.

(b) The Commission may refuse to process any non-routine application not submitted at least fifteen business days prior to the proposed event date if the applicant will operate a drinking environment as defined by OAR 845-006-0340(8).

(c) The Commission may refuse to process any non-routine application not submitted at least twenty-five business days prior to the proposed event date if prior to the submission of the application Commission staff provide notice to the applicant or the applicant's representative that investigation of the application will require assessment of public safety or neighborhood impact matters, or the risk of disturbances or liquor law violations at the location proposed to be licensed.

(7) Submission of an application within the time lines stated in subsection (6) of this rule does not guarantee the Commission will have the resources to complete investigation of the application prior to the applications requested date(s).

(8) The Commission may refund the special license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

Stat. Auth.: ORS 471, including
ORS 471.030, 471.040, &
471.730(1) & (5)

Stats. Implemented: ORS 471.223,
ORS 471.730(5)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-005-0420

Same-Day Retail Delivery of Package Alcohol with Meal Service

(1) ORS 471.305 restricts retail wine and malt beverage sales to the licensed premises. It allows deliveries within Oregon "made by the licensee to customers pursuant to bona fide orders received on the premises prior to delivery".

(2) As used in this rule:

(a) "Made by the licensee" includes deliveries by the licensee's employee who is a service permittee, is at least 21 years old and has successfully completed an approved Alcohol Server Education Course. If the licensee's employee does not comply with the requirements of section (3) of this rule, the licensee has violated this rule;

(b) "Orders received on the licensed premises" means an order placed in person on the licensed premises and an order received by mail, telephone, telegraph, facsimile or other similar means.

(c) "Regular meal" means any combination of foods, excluding sandwiches, that is generally considered to be a complete meal, at least a part of which is prepared and cooked on the licensed premises, and requires the use of dining implements for consumption.

(3) Same-day delivery is limited to

manufacturer-sealed containers of alcoholic beverages that may be sold for off-premises consumption under the license privilege, but not including kegs of malt beverages.

(4) To qualify for the same-day delivery privilege allowed by this rule, a licensee must:

(a) Have an Off-Premises Sales license and either a Full On-Premises Sales or a Limited On-Premises Sales license, or a Brewery-Public House license, and;

(b) Be in the business of preparing and serving regular meals on the licensed premises, and;

(c) Submit a complete written request for the privilege as specified in section (4) of this rule, and;

(d) Be approved by the Commission in writing.

(5) The licensee's request shall consist of the following:

(a) If the licensee does not hold a Full On-Premises Sales license, documentation that the licensee is in the business of preparing and serving regular meals on the licensed premises.

(b) A detailed proposal to deliver alcoholic beverages in compliance with the criteria of section (6) of this rule.

(6) To be approved for same-day delivery, the licensee must propose to comply with the following requirements:

(a) Food, excluding beverages, must account for at least 75% of the cost of the delivery.

(b) The licensee must use delivery vehicles that prominently display the licensee's trade name;

(c) The licensee must make all deliveries before 9:00 p.m.;

(d) The licensee must prominently label each shipping container: "Alcoholic Beverages - Do not deliver to a person who is under 21 years of age or visibly intoxicated;"

(e) The licensee must deliver only to a person who is at least 21 years old and must not deliver to a visibly intoxicated person;

(f) The licensee must deliver only to a home or business;

(g) The licensee must not deliver kegs;
 (h) At the time of delivery, the delivery person must complete a Commission-approved form. The delivery person must use the form to record the verification that the person who receives the delivery is at least 21 years old, the delivery address and the identity of the delivery person. The delivery person must give the completed form to the retail licensee who must keep this verification record for two years.

(7) A licensee may request exemption from sub-section (6)(a) of this rule. The Commission will determine the merit of the request based on the following criteria:

- (a) The licensee plans to deliver small quantities of alcoholic beverages;
- (b) The food that the licensee offers are not fast foods, short order foods or snacks. Examples include hamburgers, sandwiches and pizza;
- (c) The licensee has a good compliance history.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02

845-005-0422

Next-Day Delivery of Package Alcohol; Wine and Cider Delivery by Winery Licensee

(1) ORS 471.305 restricts retail wine, cider, and malt beverage sales to the licensed premises. It allows deliveries within Oregon “made by the licensee to customers pursuant to bona fide orders received on the premises prior to delivery.”

(2) The licensee’s license must include off-premises sales privileges for malt beverages to deliver malt beverages, off-premises sales privileges for wine to deliver wine or cider.

(3) A Winery licensee is authorized to ship not more than two cases of wine or cider containing not more than nine liters per case per month to any resident of this state who is at least 21 years of age, for personal use and not for resale.

(4) Before making the first delivery, the licensee must notify the Commission on a

Commission-supplied form that the licensee plans to provide this delivery service.

(5) The licensee may not deliver kegs without prior written approval for each delivery.

(6) As used in this rule, “made by the licensee” includes deliveries by the licensee’s employee who holds a current Service Permit and by a common carrier who has a Commission-approved delivery plan. Common carrier delivery plans are assessed under the guidelines of OAR 845-005-0424.

(7) The licensee may make deliveries only in compliance with the requirements of OAR 845-006-0398.

Stat. Auth.: ORS Ch. 471, including 471.030, 471.305, and 471.730(1),(5), & (6)

Stats. Implemented: ORS 471.223 & ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-005-0423

Wine Shipment by Out-of-State Licensee

(1) A retailer or winery licensed in another state that wants to ship wine or cider to Oregon residents as ORS 471.229 allows must complete a Commission-supplied application for an Out-of-State Wine Shipper license. There is no fee for this license. The license is valid for five years and expires at 12 midnight on December 31 of the fifth year following issuance.

(2) An Out-of-State Wine Shipper licensee:

(a) Is authorized to ship not more than two cases of wine or cider containing not more than nine liters per case per month to any resident of this state who is at least 21 years of age, for personal use and not for resale;

(b) May accept written or telephone orders for wine or cider. The licensee must wait until the next day to ship a telephone order;

(c) May use only a common carrier that has a Commission-approved delivery plan. Requests for approval of common carrier delivery plans are evaluated

under the guidelines of OAR 845-005-0424;

(d) Must prominently label each shipping container of any wine or cider shipped under this subsection: "Alcoholic Beverages - Do not deliver to a person who is under 21 years of age or visibly intoxicated."

(3) The Commission may cancel or suspend a wine shipper's license:

(a) If the delivery person delivers to a minor or a visibly intoxicated person or does not comply with subsection (2)(c) of this rule;

(b) If the licensee fails to comply with the requirements of ORS 471.229 and all other Oregon alcoholic beverage statutes and rules applicable to the sale of wine or cider in Oregon.

Stat. Auth.: ORS 471, including 471.030, ORS 471.229, 471.730(1), (5) & (6)

Stat. Implemented: ORS 471.229

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-005-0424

Guidelines for Approval of Common Carrier for Licensee Deliveries

The Commission will evaluate and may approve a common carriers plan to deliver alcohol for licensees as allowed under OAR 845-005-0422 and 845-005-0423 based on:

(1) Specifics of the plan, including:

(a) Hours of delivery;

(b) Minimum age of delivery persons;

(c) Means of ensuring delivery containers are labeled, Alcoholic beverages -- Do not deliver to a person who is under 21 years of age or visibly intoxicated;

(d) Assurance the delivery person will make personal delivery in compliance with the requirement of Section (1)(c) of this rule.

(2) The length of time the carrier has been in business and its record of compliance with the law.

(3) The carriers training program for delivery personnel and delivery practices.

(4) The carriers willingness and ability to comply with its plan.

Stat. Auth.: ORS 471, including ORS 471-229, ORS 471.030, ORS 471.040, ORS 471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.405 and ORS 471.229

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01

845-005-0427

Retail On-Premises Malt Beverage or Wine Sampling Involving Manufacturer or Certificate of Approval Holder

(1) Certificate of Approval holders and Oregon Winery, Grower Sales Privilege, Brewery-Public House, Brewery, and Warehouse licensees may conduct or assist at tasting events at Full On-Premises Sales and Limited On-Premises Sales licensed premises, and at Off-Premises Sales licensed premises which sell petroleum products in compliance with OAR 845-006-0450, for the purpose of promoting their wine, cider, and malt beverage products to the public.

(2) Sample tasting events permitted under this rule:

(a) Do not require a special or temporary license;

(b) Must be conducted in compliance with OAR 845-006-0450.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.402

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-005-0428

Retail On-Premises Distilled Spirits Sampling Involving Distillery Representative

(1) Full On-Premises Sales licensees may allow a distillery with products approved for sale in Oregon (distillery) and its representatives, employees, contractors, and agents to participate in distilled spirits educational seminars and sample tasting events. These events must be sponsored by

the Full On-Premises Sales licensee and be held on the Full On-Premises Sales licensee's permanently (not temporarily) licensed premises.

(2) Sample Tasting Events. These are events sponsored by the Full On-Premises Sales licensee where a distillery and its representatives, employees, contractors, and agents visit the Full On-Premises Sales licensee's permanently licensed premises for the purpose of offering free sample tastings of the distillery's product to customers of the Full On-Premises Sales licensee. At any event allowed by sections (2) through (7) of this rule, the Full On-Premises Sales licensee is responsible for ensuring that the distillery and its representatives, employees, contractors, and agents:

- (a) Provide or pay for the person to serve the distilled spirit tasting. The server must be the distillery's representative, employee, contractor, or agent. The server may not be an employee or agent of the Full On-Premises licensee where the tastings occur. All servers must have valid Oregon Service Permits;
- (b) Do not compensate the Full On-Premises Sales licensee or its employees or agents in order to conduct the tasting event;
- (c) Do not sell, serve, or coordinate the sale or service of alcohol for the Full On-Premises Sales licensee or its employees or agents;
- (d) Do not advertise the tasting. The Full On-Premises Sales licensee may advertise the tasting event only inside its retail business;
- (e) Do not provide any other service normally provided by the Full On-Premises Sales licensee (for example: taking orders for alcohol or food, serving drinks to customers, promoting alcohol beyond service of the sample tasting);
- (f) Provide the product to be sampled, and remove any remaining product at the end of the tasting;
- (g) Provide only product approved for sale in Oregon;
- (h) Do not give anything prohibited by

division 13 of chapter 845 of the Commission's administrative rules to a retailer or its customers;

(i) Comply with ORS 471.398, and division 13 of chapter 845 of the Commission's administrative rules.

(3) Tastings allowed under sections (2) through (7) of this rule are permitted only in premises or portions of premises where minors are not allowed, either due to an existing OLCC minor posting sign which prohibits minors, or because the event is not open to minor patronage.

(4) Sample tasting sizes, number of samples per customer. At sample tasting events allowed under sections (2) through (7) of this rule, sample tastings are limited to two free samples of one-quarter ounce each per customer per tasting session, or one free sample of no more than one-half ounce of alcohol per customer per tasting session. A distillery and its representatives, employees, contractors, and agents may not provide more than one-half ounce total of distilled spirits samples per customer per day. For purposes of this rule, a day is from 7:00 a.m. until 2:30 a.m. on the succeeding calendar day.

(5) Number of sample tasting events allowed. Each Full On-Premises Sales licensee shall sponsor no more than eight sample tasting events (as described in sections (2) through (7) of this rule) per calendar year on its premises.

(6) Violations associated with sample tastings. In the case of a liquor law violation associated with a sample tasting allowed under sections (2) through (7) of this rule, the Full On-Premises Sales licensee will be held responsible. When the violation also involves a server (for example, service of a sample to a minor or a visibly intoxicated person), both the server and the Full On-Premises Sales licensee will be held responsible.

(7) Record keeping. The Full On-Premises Sales licensee must keep a record of each tasting event it sponsors, including the date and location of each event, the products served, and the names of the servers. Records of tasting events must be retained for one year from the date of the tasting.

(8) Promotional Dinner Events. These are events sponsored by a Full On-Premises Sales licensee on its permanently licensed premises where it accepts assistance from the distillery and

its representatives, employees, contractors, and agents, where meals are served, and multiple servings/samples (“flights”) of distilled spirits accompany the meals. These are not considered sample tasting events as described in sections (2) through (7) of this rule. At all promotional dinner events the Full On-Premises Sales licensee must meet the Commission’s food service standards as described in OAR 845-006-0460 through 845-006-0468. All distilled spirits consumed at promotional dinner events as described in this section must be purchased by the Full On-Premises Sales licensee from a retail sales agent of the Commission or from another Full On-Premises Sales licensee who has purchased the distilled spirits from a retail sales agent of the Commission. All advertising of the promotional dinner event must be purchased by the Full On-Premises Sales licensee.

(a) Each Full On-Premises Sales licensee may sponsor no more than eight promotional dinner events per calendar year on its premises.

(b) At events allowed under this section, the Full On-Premises Sales licensee is responsible for ensuring that the distillery and its representatives, employees, contractors, and agents:

(A) Provide only education to patrons and staff (the distillery and its representatives, employees, contractors, and agents may not pour, serve or sell alcoholic beverages);

(B) Participate in these promotional events only for the products they represent;

(C) Do not compensate any employee or agent of the retail licensee to participate in any promotional event as described in this section;

(D) Do not pay for advertising the event;

(E) Do not donate, give, pay for, underwrite, or otherwise compensate the Full On-Premises Sales licensee for the distilled spirits consumed at the promotional dinner event.

(c) The Full On-Premises Sales licensee must keep a record of each promotional dinner event it holds, including the date and location of each event, the proof of purchase of each product(s) served, the distillery or distilleries represented, and the name of each distillery representative, employee, contractor, or agent who participated in an educational capacity at the event. These records must be retained by the Full On-Premises Sales licensee for one year from the date of the promotional dinner event.

(9) Violation of sections (2) through (8) of this rule are Category III violations.

(10) A distillery and its representatives, employees, contractors, and agents may offer samples not exceeding one-quarter ounce of alcohol per sample by measured pour to those attending an industry trade show.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.398 & 471.750

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 3-2001(Temp), f. & cert. ef. 8-10-01 thru 2-6-02; OLCC 3-2002, f. & cert. ef. 2-15-02; OLCC 7-2005, f. 10-19-05, cert. ef. 11-1-05

845-005-0440

Temporary Sales Licenses

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages on premises that the Commission has not licensed. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages.

(2) ORS 471.190 authorizes the Commission to issue a Temporary Sales, license to a person who is not a licensee of the Commission. The Commission may issue a Temporary Sales license only to:

(a) A nonprofit or charitable organization that is registered with the state;

(b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042;

(c) An agency of the State;

(d) A local government or an agency or department of a local government;

(e) Any person otherwise qualified under the Commission's licensing standards, if the Commission concludes minor patrons should be allowed anywhere on the licensed premises throughout the time the event occurs. The Commission's standard for making this decision is OAR 845-006-0340.

(3) The Commission may authorize a Temporary Sales licensee to sell at retail by the drink wine, malt beverages, cider and distilled liquor. The Commission may authorize retail package sales of wine, malt beverages or cider under a Temporary Sales license.

(4) The Commission may authorize package sales of wine, malt beverages or cider under a Temporary Sales license for the purpose of a raffle. The Commission shall issue a Temporary Sales license for the purpose of a raffle only to a nonprofit or charitable organization that is registered with the state.

(5) Applicants must apply in writing, using the Commission form provided for this purpose. The Commission may reject any application not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(6) The application for a temporary license under this rule shall include:

(a) A control plan for managing patronage by minors and alcohol consumption by adults;

(b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of

entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body or the department it has authorized to make such recommendation;

(g) License fees as established by ORS 471.311.

(7) Alcohol servers at locations licensed under subsections (2)(b)-(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection (8) of this rule.

(8) The Commission may waive the service permit requirement for the holder of a Temporary Sales license issued under subsections (2)(b)-(e) of this rule, and the licensee's alcohol servers, if:

(a) The license is used only for package sales; or if

(b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and

(c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who has completed a Server Education course successfully within 5 years prior to the date of the event.

(9) At events licensed under subsection (2)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:

(a) The alcohol server has a valid service permit or has successfully completed a Server Education course within 5 years prior to the date of the event, or

(b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, What Every Volunteer Alcohol Server Needs

to Know. The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.

(10) If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.

(11) The Commission may deny, cancel or restrict a temporary license for any reason for which the Commission may deny, cancel or restrict a regular license.

(12) The Commission may deny a temporary license if the applicant's license use is or will constitute an on-going business operation.

(13) The Commission may limit a single temporary license under this rule to no more than five consecutive event days at a single location. The Commission may grant additional temporary licenses for an event if the licensee's management of the event shows the licensee continues to be an acceptable compliance risk.

(14) Commission staff investigates non-routine applications for temporary licenses. Non-routine applications include those that propose electronically amplified entertainment, a drinking environment as defined in OAR 845-006-0340(8), an operation that staff concludes requires employment of security personnel, or that has not received an unqualified grant recommendation from the local governing body or its delegated department. Commission staff assesses each application to determine if it is routine or non-routine. Applications must be submitted enough in advance of the event date to allow staff assessment and investigation.

(a) The Commission may refuse to process any routine application not submitted at least five business days in advance of the proposed event date.

(b) The Commission may refuse to

process any non-routine application not submitted at least fifteen business days prior to the proposed event date if the applicant will operate a drinking environment as defined by OAR 845-006-0340(8).

(c) The Commission may refuse to process any non-routine application that is not submitted at least twenty-five business days prior to the proposed event date if prior to the submission of the application, Commission staff provide notice to the applicant or the applicant's representative that investigation of the application will require assessment of public safety or neighborhood impact matters, or the risk of liquor law violations or public disturbances at the location proposed to be licensed.

(15) Submission of an application within the time lines stated in subsection (13) of this rule does not guarantee the Commission will have the resources to complete investigation of the application prior to the application's requested date(s).

(16) The Commission may refund the temporary license fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

Stat. Auth.: ORS 471, ORS 471.030, ORS 471.040, ORS 471.730(1) & (5)

Stats. Implemented: ORS 471.190

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 4-2001(Temp), f. & cert. ef. 8-15-01 thru 2-11-02; OLCC 13-2001, f. 12-18-01, cert. ef. 2-12-02; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02

845-005-0445

Temporary Authority

(1) ORS 471.302 and 471.297 allow the Commission to give certain applicants the authority to sell and serve alcoholic beverages while the Commission determines the applicant's

eligibility. Temporary authorities to operate are not to exceed 90 days, unless an extension of up to an additional 30 days is granted under section (2) of this rule. The Commission may refuse to grant this temporary authority to operate when the Commission has reasonable basis to believe that the applicant may not be eligible for a license under ORS Chapter 471 and the Commission's Administrative Rules, OAR chapter 845.

(2) ORS 471.297 and 471.302 allow the agency Administrator to extend a temporary authority to operate for a period not to exceed 30 days if the Commission has not granted or denied the application at the end of the 90-day period. An extension of not more than 30 days may be granted by the agency Administrator under the following circumstances:

- (a) The agency has not received a written recommendation from the local governing body as required by ORS 471.166 and OAR 845-005-0304; or
- (b) An extension of time is necessary for the agency to complete its investigation or processing of the application. An extension of the temporary authority will not be granted if the sole basis is the applicant's failure to provide timely documentation which was requested pursuant to OAR 845-005-0315.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.302 & 471.297

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 23-2003(Temp), f. 12-16-03, cert. ef. 1-1-04 thru 6-28-04; OLCC 6-2004, f. 5-19-04, cert. ef. 6-29-04

845-005-0450

Standards for Authority to Operate a Licensed Business as a Secured Party, a Trustee, a Receiver, a Debtor-in-Possession or an Administrator

(1) ORS 471.292(2)(c) allows the Commission to issue, for a reasonable period of time, a temporary authority to operate a licensed business to a person holding a security interest in the business to allow orderly disposition of the business.

- (a) The secured party must provide the Commission with the following information: Proof of a substantial security interest as defined in ORS 79.1050 in the licensed business;
- (b) Proof of the licensee's default on the secured debt;
- (c) Proof of legal access to the real property; and
- (d) A written request for authority to operate as a secured party listing the secured party's address and telephone number.

(2) ORS 471.292(2)(b) allows the Commission to issue a temporary authority to operate a licensed business to the trustee, the receiver of an insolvent or bankrupt licensed business or the administrator of a deceased licensee. The purpose of this authority is to provide for the operation of the licensed business for a reasonable period of time to allow orderly disposition of the business. The trustee, the receiver, debtor-in-possession must provide the Commission with the following information:

- (a) Proof that the person is the legal trustee, receiver, debtor-in-possession for the business; and
- (b) A written request for authority to operate that lists the trustee, the receiver, debtor-in-possession's address and telephone number.

(3) The Commission may revoke or refuse to issue or extend authority for secured party, trustee, receiver, debtor-in-possession to operate:

- (a) If the secured party, trustee, receiver, debtor-in-possession does not propose to operate the business immediately or does not begin to operate the business immediately upon receiving the temporary authority;
- (b) For any of the reasons that the Commission may revoke or refuse to issue or renew a license;
- (c) If the secured party, trustee, receiver, debtor-in-possession operates the business in violation of ORS chapter 471 or OAR chapter 845;
- (d) If a reasonable time for disposition of the business has elapsed; or
- (e) If the Commission has approved a

change of location for the existing license.

Stat. Auth.: ORS 471, including
ORS 471.030, ORS 471.040, ORS
471.730(1) & ORS 471.730(5)

Stats. Implemented: ORS 471.292(2)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01