

OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845, DIVISION 5 & 6
PRIVATE CLUB PACKAGE
PROPOSED AMENDMENTS – Final Staff Draft

Note: **Bold and underlined** = new text; *~~italics and strikethrough~~* = deleted text

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)~~ **(5)** 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)~~ **(6)** The applicant fails to successfully complete an approved Alcohol Server Education Course as ORS 471.542 and the Commission rules require.

~~(8)~~ **(7)** 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)~~ **(8)** 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)~~ **(9)** 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)~~ **(10)** 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 **& ORS 471.313**

845-005-0321

Additional License Refusal Reasons for a Full On-Premises Sales License for a Private Club

ORS 471.175 allows the Commission to issue a full on-premises sales license to a private club as described in ORS 471.175(8). This rule sets criteria to refuse to issue or renew a Full On-Premises Sales License for a Private Club. These criteria are in addition to other refusal criteria set out in ORS Chapter 471 and OAR Chapter 845 Division 5.

(1) Definitions. For this rule and OAR 845-006-0490:

(a) "Auxiliary Member" means a living individual that has met the eligibility requirements as set out in the nonprofit corporation's bylaws to be an auxiliary member and has been designated as an auxiliary member with certain limited membership privileges by the nonprofit corporation.

(b) "Full Member" means a living individual that has met the eligibility requirements as set out in the nonprofit corporation's bylaws to be a full member and has been designated as a full member by the nonprofit corporation. A full member must pay dues to the club, have full-time membership privileges equal to all other full members of the club, and be entitled to vote in all elections for directors of the nonprofit corporation licensee of the club.

(c) "Nonmember" means an individual who is not a full member or auxiliary member and who is at the club for the purpose of benefiting from the club's services or facility.

(d) "Nonprofit Corporation" means a mutual benefit corporation, a public benefit corporation, or religious corporation as defined in ORS Chapter 65.

(2) The Commission may refuse to issue or renew a Full On-Premises Sales License for a Private Club when the applicant:

(a) Is not a nonprofit corporation currently registered as such with Oregon's Office of the Secretary of State; or

(b) At the time of initial application for licensure, has not been registered as a nonprofit corporation with Oregon's Office of the Secretary of State for a minimum of one year immediately prior to the date of the application; or

(c) Does not have a minimum of 200 full members.

Stat. Auth.: ORS 471, including ORS 471.030, 471.040, 471.175, & 471.730(1) & (5)
Stats. Implemented: ORS 471.175

845-006-0490

Requirements for a Full On-Premises Sales License for a Private Club

This rule sets requirements in addition to other requirements set out in ORS Chapter 471 and OAR Chapter 845 Divisions 5 and 6 for a Full On-Premises Sales License for a Private Club.

(1) Definitions. For this rule and OAR 845-005-0321:

(a) "Auxiliary Member" means a living individual that has met the eligibility requirements as set out in the nonprofit corporation's bylaws to be an auxiliary member and has been designated as an auxiliary member with certain limited membership privileges by the nonprofit corporation.

(b) "Full Member" means a living individual that has met the eligibility requirements as set out in the nonprofit corporation's bylaws to be a full member and has been designated as a full member by the nonprofit corporation. A full member must pay dues to the club, have full-time membership privileges equal to all other full members of the club, and be entitled to vote in all elections for directors of the nonprofit corporation licensee of the club.

(c) "Nonmember" means an individual who is not a full member or auxiliary member and who is at the club for the purpose of benefiting from the club's services or facility.

(d) "Nonprofit Corporation" means a mutual benefit corporation, a public benefit corporation, or religious corporation as defined in ORS Chapter 65.

(2) Food service requirements. The licensee must meet the food service requirements of OAR 845-006-0461.

(a) For the purposes of food service requirements, guests are defined as:

(A) A nonmember who has been invited by a member (full or auxiliary) or the club and a member is present with that individual at all times in areas where alcohol is sold, served, or consumed; or

(B) A nonmember attending a family-oriented event of a member (full or auxiliary) and where eating or an activity appropriate for minors is the overall predominant activity in the area where the individual is present. Examples include but are not limited to: wedding; wedding reception; wedding anniversary; birthday; family reunion; and memorial service.

(b) For the purposes of food service requirements, the general public is anyone who is not a member (full or auxiliary) or a guest. This rule in no way requires a private club to be open to the general public.

(3) Nonmembers.

(a) If one (or more) nonmember(s) is in an area where alcohol is sold, served, or consumed, at least one member (full or auxiliary) must be present in the area at all times.

(b) A violation of this section is a Category III violation.

Stat. Auth.: ORS 471, including ORS 471.030, 471.040, 471.175, & 471.730(1) & (5)
Stats. Implemented: ORS 471.175

845-008-0045

Service to Guests by Full On-Premises Sales Licenses

~~*(1) Purpose. The Commission grants Full On-Premises Sales licenses to private clubs so that they may sell and serve alcoholic beverages to members and guests. The purpose of this rule is to define member and guest.*~~

~~*(2) Prohibited Sale of Alcoholic Liquor. Licensees holding a Full On-Premises license may not sell or make alcoholic beverages available except to members and guests, as defined in this rule.*~~

~~*(3) Member Defined. A member is a person or entity who pays dues and has full time membership privileges in the club or who is a full time member of an organization that has reciprocal privileges with the club. An auxiliary member is a person or entity defined by charter or bylaw of the private club as having certain limited membership privileges. Auxiliary members do not have to sign in as guests at the club.*~~

~~(4) Guests of Member. A guest is an individual who enjoys a bona fide guest-host relationship with a member at the private club. A bona fide guest-host relationship exists only if the individual:~~

~~(a) Is invited by a member and the member pays for all costs incurred by the guest, without reimbursement in whole or in part from anyone. The sponsoring member must be on the premises while the guest is on the premises. (Sign-in or guest list required);~~

~~(b) Is invited by the club and the club pays for all costs incurred by the individual without reimbursement in whole or in part from anyone. (Payment of standard membership fees and regular monthly dues by members does not constitute reimbursement);~~

~~(c) Is attending a family reunion of a member, or a wedding, wedding reception, or wedding anniversary of a member or of a person in a member's family;~~

~~(d) Was personally and individually invited by the member prior to arrival at the licensed premises, and is accompanied by the sponsoring member at all reasonable times while in the licensed premises. (Sign-in or guest list required). However, if a member invites more than ten individuals affiliated with the same company, firm, or organization, the Commission will consider the invitation to be based on that affiliation. The Commission will not recognize this to be a bona fide guest-host relationship under this subsection, unless the company, firm, or organization:~~

~~(A) Is a sole proprietorship, and the hosting member is the sole proprietor;~~

~~(B) Is a partnership, and the hosting member is a general partner;~~

~~(C) Is a corporation, and the hosting member is a major stockholder;~~

~~(D) Is itself a member or has been paying the hosting member's dues for at least three consecutive months prior to the activity. The member and a corporate officer or local general manager must sign an affidavit attesting to the fact that the corporation has been and will be paying all or part of the member's monthly dues. The club must keep the affidavit on file for at least one year after the activity;~~

~~(E) Is a fraternity, sorority, or alumni association, and the private club is organized primarily for members of those organizations;~~

~~(F) Is an organization made up of representatives of private clubs;~~

~~(G) Is another private club participating in an athletic exchange. (Sign-in or guest list required, unless prior approval is obtained);~~

~~(H) Is sponsoring a special activity, held no more than once per year, of the company, firm, or organization, if at least ten percent of the people attending the event are members of the private club. (Prior written authorization required).~~

~~(5) Guests of Club. In order to serve the public interest, an individual will be recognized as a bona fide guest of the club if the individual:~~

~~(a) Is participating in a special event specifically designed to provide significant economic benefit to a charity. (Prior written authorization required);~~

~~(b) Is participating in an activity that is being held in conjunction with a community-wide event or festival, such as Phil Sheridan Days and Junction City's Scandinavian Festival. (Prior written authorization required);~~

~~(c) Is participating in a sporting event that requires the special facilities of a private club. (Prior written authorization required).~~

~~(d) Is participating in an activity that no Full On-Premises Sales licensee in the area has facilities available to accommodate. (Prior written request required; sign-in or guest list required). For an activity to qualify under this subsection, the private club must send the Commission's nearest regional office a written request to host the activity and sell alcoholic beverages to the participants. The request must contain facts that show that the private club has the only adequate facilities available to accommodate the activity within a ten-mile radius of the club. The Commission will determine adequacy of the facilities based on factors such as size, seating, and the willingness to provide desired food or equipment necessary for the activity. The Commission will also consider whether the facilities are available for the date and hours of the activity at a price competitive with other commercial establishments;~~

~~(A) The Commission will deny the request if it receives the written request less than 20 days before the activity, unless it determines that extraordinary circumstances exist. Therefore, if the request is not mailed to the Commission more than 20 days before the activity, the private club must explain in the request why it could not have been mailed earlier;~~

~~(B) The Commission may disapprove sale of alcoholic beverages at the activity if the request does not comply with the rule or if the Commission determines that the private club facilities are not the only adequate facilities available.~~

~~(6) Duty to Investigate. Private clubs must investigate when group reservations are made to ensure that non-members in the group are eligible to be treated as guests and served alcoholic beverages under this rule.~~

~~(7) Prior Approval. Private clubs must obtain prior written authorization from the Commission to host any activity described in subsections (5)(a) (special event for charity), (5)(b) (community-wide event), (5)(c) (special facilities), and (4)(d)(H) (special activity one time per year) of this rule. The Commission's nearest regional office must receive the request for approval at least 20 days before the activity, except in unforeseen circumstances. The Commission will notify the private club within ten~~

~~working days after the receipt of the request whether the activity is approved or denied. Verbal notification shall be confirmed in writing.~~

~~(8) Guest List. Private clubs shall maintain a sign-in register or guest list showing the names of all guests, except those attending activities described in subsections (4)(c) (family reunions, wedding receptions), (5)(a) (special event for charity), (5)(b) (community wide event), and (5)(c) (special facilities) of this rule. The register and list must also show names of sponsoring members and dates involved. They must be kept on the premises for at least one year. Guests attending activities described in subsection (4)(d)(G) (athletic exchange) of this rule must sign in unless the private club has received prior approval for the activity.~~

~~(9) Record Keeping. Private clubs shall keep on the premises for at least two years an accurate record of all activities, functions, or meetings hosted where more than ten guests were affiliated with the same company, firm, or organization. The record shall include the date, nature of activity, subsection of the rule under which the activity is authorized, name(s) of sponsoring member(s), if any, and number of people who attended. The record must be available for inspection by the Commission.~~

~~(10) Despite the prohibition of subsection (2) of this rule, a private club as defined in ORS 471.175(8) which is operating with a Full On-Premises Sales license may serve the general public if:~~

~~(a) The licensee has proposed in writing to the Commission to comply with the food service standards for commercial establishments, OAR 845-006-0460, the Commission has approved the proposal, and the club complies with the proposal; or~~

~~(b) The licensee's service to the general public is limited to hosting or holding an event that is alcohol-free.~~

~~Stat. Auth.: ORS 471, including 471.030, 471.040, 471.175 & 471.730(1) & (5)
Stats. Implemented: ORS 471.175~~