For your information

The Oregon Liquor Control Commission has:

___X___ Amended

___ Adopted

___ Repealed

OAR 845-006-0340

Effective: 12/1/16

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

845-006-0340
Minor Postings

(1) The Commission is charged with regulating the sale of alcohol in a manner which protects the safety and welfare of the citizens, and ensures that alcohol is used legally. As a policy making body, the Commission has a responsibility to send a clear message to the community and its youth that drinking alcohol is an adult activity and that drinking environments are for adults. This rule applies only to licenses that allow on-premises alcohol consumption including tastings, except for tasting areas at an Off-Premises license approved under OAR 845-006-0450.

(2) Definitions. For this rule:
(a) “Eating food is the predominant activity” means the Commission has determined that more people eat food than drink alcohol (or the Commission determines that the licensee has reasonably projected this).
(b) "Drinking predominates" means the Commission has determined that more people are, or at times are likely to be, drinking alcohol than not drinking alcohol.
(c) “Drinking environment” means the Commission determines that there is a combination of conditions or factors in a premises, room, or area which make it likely that minors will obtain alcohol or which create an environment where drinking alcohol is or appears to be the predominant activity. Some examples of factors that contribute to a drinking environment include but are not limited to cocktail tables, a bar, bar equipment and accessories, dim lighting, alcohol advertising, events or entertainment primarily targeted to adults, and events or operations where the monitoring of patron behavior is or could be insufficient to prevent minors from obtaining alcohol.
(d) "Recent serious violation history" means:
(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors, at the premises by the applicant or licensee within the last two years. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or
(B) One category I, II or IIa administrative violation at the premises by the applicant or licensee within the last two years; or
(C) The applicant or licensee has incurred an immediate license suspension at the premises within the last two years; or

(D) There are two or more crimes or offenses involving liquor laws within the last two years at the premises.

(e) "Civic group" means a non-profit corporation, association or political entity, or any authorized representative of a governmental entity. Examples are parent-teacher associations, Rotary and Toastmasters. Civic group does not include any group made up primarily of minors.

(f) "Stage revue" means a live performance with adult or sexual themes of a type usually performed on a stage, involving players performing such activities as skits, song, dance and comedy routines.

(g) "Minor" means a person under the age of 21.

(h) "Adult" means a person 21 years of age or older.

(i) "Bar" means a counter at which the preparation, pouring, serving, sale or consumption of alcoholic beverages is the primary activity.

(j) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale or consumption of food.

(k) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(l) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(m) "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act.

(n) "Minor control plan" means a written, dated and signed plan submitted to the Commission by an applicant or licensee for a premises, room, or area that shows where and when minors are permitted and the control measures used to prevent minors from obtaining alcohol, prohibit minors when drinking alcohol predominates, and minimize minors' exposure to a drinking environment.

(3) The Commission uses Section (5) to assign minor postings to a premises, room, or area where alcohol is consumed or where there is a drinking environment. When the facts do not clearly and convincingly meet the criteria for allowing minors, the Commission interprets the rule to prohibit minors. The Commission does not assign more than one type of minor posting to an area unless there are definable boundaries.

(4) Even when minors are otherwise allowed under this rule:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in a room or area where there is entertainment which is often found in a drinking environment. Examples include but are not limited to: video lottery games; social games; stage revues; nude entertainment; and wet t-shirt events. Minors may not be in an area where this entertainment is visible.
(c) Subsections (4)(a) through (4)(b) of this rule do not apply to a minor in the immediate company of his/her spouse or Domestic Partner who is at least 21 years of age, if allowed by subsection (10) (d) (e) of this rule.

(d) Exception. Despite this prohibition, a minor in a room or area where minors are allowed may go to and return from a rest room that is in a room or area prohibited to minors provided the minor does not remain longer than necessary in the room or area prohibited to minors.

(5) The Commission uses the following minor posting signs to tell the public where minors are allowed or prohibited, and to assist licensees in controlling the presence of minors. In those circumstances when the licensee’s operation would qualify for a Number III, IIIA, IV, V, or VI 3, 3A, 4, 5, 6, or 7 minor posting, the licensee may have a Number 1 or 2 posting prohibiting minors.

(a) Number 1 minor posting. "No Minors Permitted Anywhere on This Premises". (Number I Minor Posting). The Commission assigns this posting to an entire premises where there is a drinking environment or drinking alcohol does or is likely to predominate most of the time. An example could be a tavern.

(b) Number 2 minor posting. "No Minors Permitted in This Portion of The Premises or at This Bar". (Number II Minor Posting). The Commission assigns this posting to rooms or areas of a premises where there is a drinking environment or drinking alcohol does or is likely to predominate most of the time. Some examples are lounges, gambling rooms, the bar and other rooms or areas where drinking alcohol is the predominant activity.

(c) Number 3 minor posting. "Minors Allowed in This Area with No Drinking Environment and Drinking Alcohol Does Not Predominate". (Number III Minor Posting). The Commission assigns this posting to a premises, room, or area where there is no drinking environment and drinking alcohol will never predominate. The Commission does not generally require the Number III sign to be physically posted. Minors may use entertainment devices. Some examples are restaurants and dining rooms in premises with separate lounges.

(d) Number 3A minor posting. "Minors Allowed From: ___ To: ___ (Hours) On: ___ (days)". (Number III-A Minor Posting). The Commission assigns this posting to allow minors in a premises, room, or area during times when there is no drinking environment and drinking alcohol does not predominate and to prohibit minors during times when there is a drinking environment or drinking alcohol does or is likely to predominate. Minors may use entertainment devices during the times minors are allowed. An example is a pizza parlor with karaoke during some times. Minors are allowed in the area and may participate in karaoke during the times when there is no drinking environment and drinking alcohol does not predominate.

(e) Number 4 minor posting. "Minors Allowed During These Hours Only. On: (days) from: ____ to: ____ and only for the purpose of consuming food". (Number IV Minor Posting). The Commission assigns this posting to an area or entire premises that often has a drinking environment to let minors consume food during times when drinking does not predominate and eating food is the predominant activity. Eating food must predominate during all times when minors are allowed, even if minors are not present. Minors may not use entertainment devices in this area.
(f) **Number 5 minor posting.** “Minors Allowed Only with their Parent or Spouse or Domestic Partner age 21 or over”, “Minors Allowed in Tasting Room.” (Number V Minor Posting). The Commission assigns this posting to rooms or areas where the only alcoholic beverages served or consumed are sample tastings of distilled spirits, wine, malt beverages or cider. For purposes of this rule, a sample tasting is defined as a single container with no more than one and a half ounces of wine or cider, three ounces of malt beverages, one-half ounce of distilled spirits for the general public, or one ounce of distilled spirits for a trade visitor.

(g) **Number 6 minor posting.** “Minors Allowed in this Premises or in this Portion of this Premises only as provided in the Licensee’s Minor Control Plan Approved by the Commission” (Number VI Minor Posting). The Commission may assign this posting to a premises, room, or area where minors will be allowed only as per the minor control plan approved by the Commission. Minors are allowed only during the days and times or types of events approved in the minor control plan. The Commission will not approve a minor control plan that proposes to allow minors in a premises, room, or area during times when the Commission determines that the predominant activity is the consumption of alcohol or when the drinking environment is not minimized. The minor control plan must be in writing, dated and signed by the licensee, and approved by the Commission prior to operating with this posting.

(h) **Number 7 minor posting.** “Minors Allowed with No Drinking Environment”. This posting allows minors up until no later than 9:00 p.m. in a premises, room, or area when there is no drinking environment in the premises, room, or area.

(6) Temporary Relaxation or Tightening of Minor Postings. The Commission recognizes that under special, limited circumstances, it may be appropriate to allow minors in a premises, room, or area where minors are normally prohibited or temporarily prohibit minors in a Number 3 or in a 3A posted area during times when minors are allowed. Therefore, the Commission may grant a temporary relaxation or tightening of a minor posting for an occasional event held on a licensed premises. The for a temporary relaxation the licensee must submit a written, and dated, and signed request, including a minor control plan, to the Commission explaining the details of the temporary relaxation and how the licensee will prevent minors from obtaining alcohol, prohibit minors when drinking alcohol predominates, and minimize minors’ exposure to a drinking environment. For a temporary tightening the licensee must submit a written and dated request, including a control plan, to the Commission explaining the details of the temporary tightening and how the licensee will prevent minors from entering the premises, room, or area. The licensee must obtain Commission approval prior to temporarily relaxing or tightening the minor posting.

(a) The Commission does not grant a temporary relaxation when:

(A) There has been a recent serious violation history in the room, area or entire premises; or

(B) During the activity, the premises, room, or area has or will have entertainment described under section (4)(b) of this rule. The Commission does not grant relaxations if any of this entertainment is visible from the area where the activity is held. Despite this prohibition, a minor in a room or area where minors are allowed may go to and
return from a rest room that is in a room or area prohibited to minors as per subsection (4)(d) of this rule.
(b) The Commission may temporarily allow minors into a normally prohibited area under these circumstances:
(A) The licensee needs additional space for overflow family dining for widely recognized holidays, such as Mother’s Day, Father’s Day and Thanksgiving, and eating predominates during all times when minors are allowed, even if minors are not present;
(B) The activity is a family-oriented event held in a physically-separate room or area where drinking alcohol does not predominate during all times when minors are allowed. The general public is not allowed at the event. Some examples are wedding receptions and family reunions;
(C) The activity is sponsored and promoted by a civic group and there is no sale, service, or consumption of alcohol during all times when minors are allowed. An example is a school-sponsored party. The following conditions apply:
(i) The group must make a written statement that no other facility in the community is available that can reasonably accommodate the activity;
(ii) A group may sponsor one activity at a licensed premises per quarter;
(iii) All alcohol must be covered and may not be served or consumed in the room or area;
(iv) No imitation cocktails or non-alcoholic beer or non-alcoholic wine are allowed;
(v) No alcohol advertising is visible; and,
(vi) Minor posting signs which prohibit minors must be covered during the activity.
(c) The Commission does not grant a temporary tightening when it is not convinced that the licensee’s plan is adequate to prevent minors from entering the premises, room, or area.
(d) When the Commission refuses to temporarily relax or tighten a minor posting, the licensee has a right to contest the decision. The licensee must comply with the assigned minor posting unless the refusal is overturned through the contested case process.

(7) Permanent Changes to Minor Postings:
(a) The Commission may change a minor posting at any time if:
(A) The existing posting is inconsistent with this rule;
(B) There has been a recent serious violation history in the premises, room, or area; or
(C) The Commission determines that the minor control plan that is the basis for the minor posting is not adequate to control the premises, room, or area.
(b) When the Commission changes a minor posting, and the licensee does not agree to the change, the licensee has a right to contest the decision. The licensee must comply with the changed minor posting unless the change is overturned through the contested case process.
(c) A licensee may not change a minor posting or the minor control plan on which a posting is based without prior written approval of the Commission. A licensee must submit a change request in writing. The Commission approves or denies a licensee’s request in writing.
(d) The Commission may refuse a licensee’s request to change a minor posting or minor control plan when:
(A) The requested posting is inconsistent with this rule;
(B) There has been a recent serious violation history in the premises, room, or area; or
(C) The Commission determines that the proposed minor control plan is not adequate to control the premises, room, or area.
(e) When the Commission refuses a licensee’s request to change a minor posting or minor control plan, the licensee has a right to contest the decision. The licensee must comply with the assigned minor posting unless the refusal is overturned through the contested case process.

(8) Minor Control Plan:
(a) The minor control plan must explain where and when minors are permitted and the control measures the applicant or licensee will use to prevent minors from obtaining alcohol, prohibit minors when drinking alcohol predominates, and minimize minors’ exposure to a drinking environment. Examples of elements to be addressed in a minor control plan include but are not limited to: amount and type of bar equipment and accessories; alcohol advertising; how identification will be checked; methods for identifying minors or adults (such as with wristbands); lighting; ratio of licensee’s staff to patrons; drink identification; drink limits; container sizes; if minor patrons are allowed without parent or guardian; separation of minors from alcohol; types and amount of food service; defined times when minors are allowed; type of activity or entertainment; posting signs explaining where and when minors are allowed; addressing unique requirements of the premises, room, or area; addressing the history of compliance with liquor laws and rules at the premises, room, or area; the projected average age of attendees at the event; and a plan for dealing with issues that arise (such as a minor in a prohibited area, a minor with fake identification, a minor found with alcohol, etc.). Further guidance on the elements that may be required in particular circumstances is set forth in guidelines as developed by the Commission.
(b) When the Commission approves a minor control plan that is the basis to assign a minor posting or temporarily relax a minor posting, the licensee must follow that minor control plan. Failure to follow that control plan is a Category III violation.
(c) The licensee must keep the minor control plan that was the basis to assign a minor posting and last approved by the Commission on the licensed premises and make the minor control plan available at any time for immediate inspection by any Commission employee or any peace officer. Failure to comply with this requirement is a Category IV violation.

(9) Licensee Responsibilities:
(a) The burden is on the licensee to convince the Commission that the premises does not have a “drinking environment” or that “eating food is the predominant activity” where those standards apply;
(b) The licensee is responsible for developing and completing any required written minor control plan;
(c) A licensee must use the minor posting signs provided by the Commission and place minor posting signs in full public view as directed by the Commission. A licensee must immediately replace any altered, unreadable or missing sign. Failure to do so is a Category V violation.
(10) Other Information on Minor Postings.
(a) This rule does not apply to a premises with a temporary license that is not on any part of a premises with a permanent or annual license issued by the Commission. Examples of a temporary license or authority include: a Temporary Sales License issued under ORS 471.190 OAR 845-005-0440; a Special Events Winery and Special Events Grower license issued under 471.223 OAR 845-005-0415; a Special Events Grower license issued under 471.227; a Special Events Distillery license issued under OAR 845-005-0413; a Special Events Brewery-Public House license issued under OAR 845-005-0414; and a temporary use of an annual license issued under OAR 845-005-0410.
(b) This rule does not apply to premises with a liquor license at a tribal gaming facility.
(c) To prevent violations from occurring or reoccurring, or in response to the licensee’s request, the Commission may assign a minor posting to the following businesses where a minor posting is not usually assigned:
(A) Private Nonprofit or for-profit private clubs licensed as per ORS 471.175;
(B) Pre-approved small-scale private catered events as per OAR 845-005-0405 and pre-approved large-scale private catered events as per 845-005-0410.
(d) Minor Postings apply 24 hours a day, including when the premises is closed to the public or the liquor license is suspended, except that the minor posting for an outdoor area that is on a sidewalk or other public right-of-way applies to that area only during the times the premises is open for business and there is the sale, service or consumption of alcohol in the outdoor area.
(e) Notwithstanding other provisions, a minor in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old may be in a premises or area where minors are prohibited if the licensee permits it. The minor must not buy, possess, or drink alcoholic beverages.

Stat. Auth.: ORS 471, 471.030, 471.430(3) & 471.730(1) & (5)
Stats. Implemented: ORS 471.430(3)