

## For your information

### The Oregon Liquor Control Commission has:

Amended  
 Adopted  
 Suspended

### **OAR 845-005-0331** **TEMPORARY**

Effective Date: July 17, 2020 – January 11, 2021

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

#### **845-005-0331**

#### **Licensing Outdoor Areas Abutting a Licensed Building**

(1) This rule applies to an outdoor area that does abut applicant's or licensee's licensed building. This rule establishes the licensing qualifications for such an outdoor area. This rule does not apply to Temporary Sales Licenses issued under OAR 845-005-0440; Special Events Brewery-Public House licenses issued under OAR 845-005-0414; Special Event Brewery Licenses issued under OAR 845-005-0412, Special Event Winery licenses issued under OAR 845-005-0415; Special Events Grower licenses issued under OAR 845-005-0415; Special Events Distillery licenses issued under OAR 845-005-0413; Small-Scale Private Catering licenses issued under OAR 845-005-0405; and Temporary Use of An Annual License licenses issued under 845-005-0410.

(2) The Commission shall refuse to license an outdoor area, and may cancel the license for an outdoor area, for any of the following reasons unless the applicant or licensee shows good cause that outweighs the refusal or cancellation basis:

(a) The outdoor area is controlled by a public entity and the public entity provides the Commission with written proof that the sale, service or consumption of alcohol in the outdoor area is not an authorized use under the applicable rules and regulations governing the public entity;

(b) The outdoor area is privately owned and the applicant or licensee fails to provide, **as required by** the Commission, **or upon request by the Commission,** *with* written proof of legal access to the outdoor area;

*(c) The outdoor area does not abut the applicant's proposed licensed building or the licensee's existing licensed building;*

~~(d)~~ **(c)** The applicant or licensee fails to define the boundaries of the outdoor area;

~~(e)~~ **(d)** The applicant or licensee fails to demonstrate there is or will be adequate supervision of the outdoor area so as to prevent violations of the liquor laws; or

~~(f)~~ **(e)** The applicant or licensee will allow amplified entertainment in the outdoor area between 12:00 a.m. and 7:00 a.m. on the same calendar day.

**(3) Limited duration or intermittent expansion of licensed premises.**

**(a) For the purposes of this subsection of the rule:**

**(A) Limited duration means the licensee received authorization to use the outdoor area as a part of the licensed business from the landowner for a period of 180 days or less.**

**(B) Intermittent means the licensee received authorization from the landowner to use the outdoor area for something less than all days of the week.**

**(b) A licensee may expand its premises on a limited duration or intermittent basis to one outdoor area that abuts the licensee's licensed premises to sell and serve alcohol at retail as allowed by the license in the outdoor area provided the following are met:**

**(A) The licensee has the permission of the landowner (private or public) to use the outdoor area and the licensee has defined the boundaries of the outdoor area on a floor plan. Licensees must provide proof of permission to use the area and the floor plan for the expansion area to the Commission upon request (within 72 hours of the request).**

**(B) The licensee uses the outdoor area only during the days and times approved by the landowner.**

**(C) A licensee shares the limited duration or intermittent expansion area with other licensees only if the licensees share the current licensed premises.**

**(c) Outdoor areas used by the licensee as described in this section are part of the annually licensed premises during the days and times that the landowner has given the licensee permission to use the outdoor area as a part of the business. Licensee is subject to all OLCC liquor laws and rules in the outdoor area for the days and times of use of the area as a part of the licensed business. Licensee must cease the sale and service of alcohol in the limited duration or intermittent expansion area once the authorization from the landowner has expired.**

**(d) A licensee using an outdoor area as described in this section must follow the regulations of all regulating bodies.**

**(e) No minor posting will be assigned to a limited duration or intermittent expansion area. However, if the licensee wants to expand the premises to an outdoor area not abutting the premises on a limited duration or intermittent basis, the licensee will ensure that either:**

**(A) The primary activity in the expanded area is patrons consuming food; or**

**(B) If the primary activity in the expanded area is not patrons consuming food, the area MUST NOT have a combination of several factors that would not be appropriate for minors, such as dim lighting and the conspicuous display of multiple alcohol signs, banners, and posters or entertainment that is not appropriate for minors.**

**(f) If the licensee holds a restricted license, licensee must follow the restrictions in the limited duration or intermittent expansion area.**

**(g) For an expansion to an outdoor area abutting the premises that does not qualify as limited duration or intermittent, a licensee must submit a request to, and receive approval from, the Commission prior to exercising license privileges in the proposed area.**

**(h) Operation of an outdoor area abutting the licensed premises without permission from the landowner is a Category III violation.**

Statutory/Other Authority: ORS 471, 471.040 & 471.730

Statutes/Other Implemented: ORS 471.001, 471.030, 471.159, 471.313 & 471.315