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OREGON LIQUOR AND CANNABIS COMMISSION

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RULES:

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REPEAL: 845-005-0303

RULE TITLE: Alcohol Impact Areas

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for the Commission to designate an alcohol impact area.

RULE TEXT:

(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.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.040, 471.157, 471.730(5), (6)

STATUTES/OTHER IMPLEMENTED: ORS 471.155, 471.168, 471.311, 471.313

AMEND: 845-005-0304

RULE TITLE: Local Government Recommendations: Requirements for Local Governments and License Applicants for Issuance of a License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Allows the Commission to consider a local government's timely written recommendation on the issuance of a license.

RULE TEXT:

(1) ORS 471.166 provides that the Commission may take into consideration a local government's timely written recommendation on the issuance of a license, 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 section (4) of this rule, the Commission shall proceed as if the local government has made a favorable recommendation.

(3) The Commission requires an applicant for issuance of a new license issued under ORS chapter 471 to provide written notice of the application to the local government in the form of a complete, accurate, and legible Commission's application form. The local government is as follows:

(a) If the address of the premises proposed to be licensed is within a city's limits, the local government is the city.

(b) If the address of the premises proposed to be licensed is not within a city's limits, the local government is the county.

(4) A local government has up to 45 days from the date it receives the notice pursuant to section (3) to provide a written recommendation to the Commission. If within the 45 day time period the local government files with the Commission a written request that meets the requirements of section (5) this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the license application.

(5) 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).

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

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.166

REPEAL: 845-005-0306

RULE TITLE: Procedures for Public Notice of License Applications

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the procedures for posting a public notice of an application for a license.

RULE TEXT:

(1) An applicant for an initial annual liquor license must post on the premises proposed to be licensed a written notice provided by the Commission. This written notice must be posted for at least 10 calendar days prior to the Commission making a decision on the license application and must be conspicuously posted in a manner that allows the public to read it. This written notice will include:

- (a) The name of the applicant.
- (b) The address of the premises proposed to be licensed.
- (c) The type of license.
- (d) The mailing address of at least one contact person for the applicant.
- (e) The mailing address of the local Commission office.

(2) The applicant must provide written notification to the Commission of the date the written notice was posted on the premises proposed to be licensed.

(3) The Commission may refuse to process the application per OAR 845-005-0315 if the applicant fails to meet this requirement.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313

AMEND: 845-005-0311

RULE TITLE: True Name on Application; Interest in Business

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Provides for the disclosure of all persons who have an ownership or financial interest in the business.

RULE TEXT:

(1) Definitions.

(a) "Licensee of record" means an individual or entity who the Commission has listed on the license certificate as a license holder for a license. There may be more than one licensee of record for the same license.

(b) "Entity" means an association, corporation, limited liability company, partnership, trust, or any similar entity that has legal standing under the laws of Oregon or another state within the United States.

(2) True name on application. An application for a license must include as an applicant all persons who have an ownership interest in the business as defined in this rule. Despite this requirement, the Commission may waive the type of ownership interests specified in section (6) of this rule.

(3) License privileges. License privileges are available only to a licensee of record and only for the premises designated on the license certificate.

(4) Ownership Interest. Under ORS 471.313(4)(h), the Commission may refuse to issue a license if an applicant is not the owner of the business proposed to be licensed or an undisclosed ownership interest exists. For purposes of this rule, an "ownership interest" is indicated by the following behaviors, benefits or obligations:

(a) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, that exercises control or responsibility over, or is entitled to exercise control or responsibility over, the business or the premises;

(b) Any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business;

(c) Any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business;

(d) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity, other than an employee, agent, or representative of the applicant or licensee acting under the direction of the applicant or licensee, who exercises or is entitled to exercise at the premises any activity requiring a license under ORS chapter 471;

(e) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity identified as a lessee, tenant, or renter (or similar term) of the premises proposed to be licensed;

(f) Unless allowed by a waiver of the ownership interest under (6) of this rule, any person or entity owning the real or personal property of the premises proposed to be licensed, unless the owner of the property has given control over the property to another party via a lease or rental agreement or similar agreement; or

(g) When an applicant is an entity, any person in that entity defined as an applicant or licensee under Commission rules.

(5) Financial Interest. Under ORS 471.757, the Commission may require the licensee or applicant to identify the persons and entities with a financial interest in the business. The Commission may evaluate any such person as if the person were the actual licensee or license applicant. If that evaluation reveals any circumstances that would support grounds for the denial, cancellation or suspension of such a license or license application, the Commission may deny, cancel or suspend the license of the actual licensee or issue the license with restrictions. For purposes of this rule, a "financial interest" exists if the performance of the business causes, or is capable of causing, a person or entity to benefit or suffer financially. Examples of a financial interest include, but are not limited to:

(a) A licensee;

(b) An employee or agent who receives out-of-the-ordinary compensation. "Out-of-the-ordinary compensation"

includes both over- and under- compensation;

(c) Any person who rents or leases real property to a licensee or applicant for use by the business;

(d) Any person who rents or leases personal property to a licensee or applicant for use in the business for a commercially unreasonable rate;

(e) Any person who lends money, real property or personal property to a licensee or applicant for use in the business;

(f) Any person who gives money, real property or personal property to a licensee or applicant for use in the business.

(g) A spouse or domestic partner of a licensee, or individual with a financial interest. For purposes of this subsection, "domestic partners" includes adults who share the same regular and permanent address and would be financially affected by the success or failure of the business as well as adults who qualify for a "domestic partnership" as defined under ORS 106.310.

(h) Any person with any ownership of an entity who is an applicant or licensee under Commission rules.

(6) Despite subsections (3) – (4) of this rule, the Commission may waive:

(a) The ownership interest of a non-applicant who has a right of access to a common area shared with an applicant or licensee; however, the non-applicant does not manage or control the sale, service, or manufacturer of alcoholic beverages in the common area. For purposes of this rule, "common area" means an area on private property that is adjacent to or in the immediate vicinity of an area leased or rented by one or more tenants and it is an area that is equally available to multiple tenants and/or the landlord for various uses.

(b) The ownership interest of a non-applicant who manages or controls, or is responsible for managing or controlling, the premises or aspects of the business at the premises provided the management or control does not involve, directly or indirectly, the sale, service, or manufacture of alcoholic beverages at the premises, or importation of alcoholic beverages to the premises, and there is at least one other party licensed at the premises who is listed by the Commission on the license certificate as a license holder for a license. Examples of non-applicants who may qualify for a waiver under this section include:

(A) Operators selling and serving food, nonalcoholic beverages, and other nonalcoholic items on the premises; or

(B) Operators who lease, rent, or otherwise occupy a portion of the licensed premises in order to provide services as a part of the business that don't involve the sale, service, or manufacture of alcoholic beverages on the license premises.

(c) The ownership interest of a non-applicant who holds, or will hold, its own manufacturing or wholesaling license issued under ORS chapter 471 at the premises. For purposes of this subsection, a brewery-public licensee is a manufacturer.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.757, 471.313

AMEND: 845-005-0312

RULE TITLE: Application for Issuance of an Annual License or Request for Change to License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Addresses the issuance of an annual license or a request for a change to a license.

RULE TEXT:

- (1) An applicant for issuance of an annual license under ORS chapter 471 must submit to the Commission all materials, forms, documents, information, and fees required by the Commission in a manner that are complete, accurate, legible, timely, and correct.
- (2) In order to accept an application for issuance of an annual license, an applicant must submit to the Commission at a minimum the edition of the Liquor License Application form posted on the Commission's website that has been completed and includes from the local government as described in OAR 845-005-0304 either:
 - (a) The local government's written recommendation;
 - (b) Documentation from the local government that it received the written notice provided from the applicant pursuant to OAR 845-005-0304 and the date of receiving that notice; or
 - (c) Documentation from the local government that the applicant is not required to submit a notice to the local government.
- (3) A licensee requesting approval of a change as required by Commission rules must submit to the Commission a written and dated request and include all materials, forms, documents, information, and fees required by the Commission for that request and submit them in a manner that are complete, accurate, legible, timely, and correct.
- (4) Upon the Commission's receipt of materials submitted pursuant to sections (1), (2), and (3), the Commission will decide if the materials contains all required forms, documents, information, or fees in a manner that are complete, accurate, legible, timely, and correct.
 - (a) The Commission may accept the submitted materials if they contain all required forms, documents, information, or fees in a manner that are complete, accurate, legible, timely, and correct may be accepted; or
 - (b) The Commission will be unable to accept the submitted materials if they don't contain all required forms, documents, information, or fees in a manner that are complete, accurate, legible, timely, and correct. The Commission's inability to accept an application or request is not subject to the requirements of ORS chapter 183.
- (5) After accepting the submitted materials, the Commission may:
 - (a) Require additional forms, documents, information, or fees from an applicant, licensee, or other persons where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or request or to otherwise perform its statutory duties;
 - (b) Inactivate an application form or request when the Commission determines the applicant or licensee fails to provide to the Commission all required materials, forms, documents, information, or fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee. Despite the requirement, the Commission may grant an applicant or licensee additional time based on the merits of the case; or
 - (c) Grant the license or approve the request.
- (6) Examples of materials, forms, documents, information, and fees the Commission may require include but are not limited to:
 - (a) Individual History form from all individuals who are an applicant or licensee as per Commission rules. The Commission may waive this requirement when it determines it does not need the materials to perform its statutory duties. Examples of this waiver include but are not limited to:
 - (A) When an applicant is an entity, for all individuals within the entity who are an applicant per Commission rules when the applicant entity provides proof to the Commission that it is listed on an exchange registered with the U.S. Securities and Exchange Commission; or
 - (B) When the Commission determines that an individual has provided written documentation to the Commission showing that control of the day-to-day operation of the business has been relinquished through a written management

agreement, or similar written agreement, by the individual to one or more parties who are an applicant or licensee for the same license at the same premises. Relinquishing control over the day-to-day operation of the business includes not managing or controlling the sale or service of alcohol or directly supervising any person who sells or serves alcohol.

(b) An entity questionnaire from all entity applicants. The Commission may waive this requirement when it determines it does not need the form to perform its statutory duties.

(c) Documents necessary to define the licensed premises and, if relevant, assign minor postings.

(d) License fees as required by ORS 471.311.

(e) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.

(f) The bond or equivalent as required by ORS chapters 471 and 473.

(7) When the Commission inactivates an application form or request under this rule:

(a) The inactivation is not subject to the requirements of ORS chapter 183;

(b) Any person wanting a license or approval at the same address as the inactivated application or request must resubmit the application materials required by this rule; and

(c) Any authority issued by the Commission to the applicant based on the application form or request is no longer valid.

(8) An applicant or licensee may submit a written request to the Commission to withdraw an application form or request. Upon the Commission's acceptance of the request, any authority issued by the Commission to the applicant or licensee based on the application or request is no longer valid.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.311

REPEAL: 845-005-0314

RULE TITLE: Refusal to Accept an Application

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Authorizes the Commission to reject any application that is not in the form required by rule.

RULE TEXT:

(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.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.311(2)

REPEAL: 845-005-0315

RULE TITLE: Applications: Refusal to Process

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the conditions under which the Commission may refuse to process an application.

RULE TEXT:

(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.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.311(1), 471.155, 471.313, 471.168

AMEND: 845-005-0320

RULE TITLE: License Refusal Reasons that Can Not Be Overcome

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the criteria that preclude issuing or renewing a license.

RULE TEXT:

The following criteria will preclude issuing or renewing a license. Intervening circumstances do not apply to these criteria.

- (1) The applicant has or would have an interest in another liquor business that ORS 471.313(3), 471.394, or 471.396 prohibits and no exception applies.
- (2) The applicant seeks a license that requires food service and is unable to show in writing that the applicant will comply with the food service requirements set by the rules of the Commission for that license.
- (3) 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.
- (4) The applicant is a retail sales agent of the Commission. Despite this requirement, a retail sales agent may obtain a license as allowed by Commission rules.
- (5) The applicant fails to successfully complete an approved Alcohol Server Education Course as ORS 471.542 and the Commission rules require.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) The applicant for an initial license has not completed Commission-given law orientation or been granted a waiver by the Commission.
- (10) An applicant or licensee has failed to define the boundaries of the licensed premises as required by ORS 471.159(1).
- (11) An applicant or licensee holds a full on-premises, caterer license issued under ORS 471.175(2)(e) and serves, or will serve, alcoholic beverages for consumption on the annually licensed premises.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.168, 471.313

AMEND: 845-005-0321

RULE TITLE: Additional License Refusal Reasons for a Full On-Premises Sales License for a Nonprofit Private Club

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes additional license refusal reasons for a Full On-Premises sales license for a nonprofit private club.

RULE TEXT:

(1) ORS 471.175 allows the Commission to issue a full on-premises sales license to a nonprofit private club as described in 471.175. This rule sets criteria to refuse to issue or renew a Full On-Premises Sales License for a Nonprofit Private Club. These criteria are in addition to other refusal criteria set out in ORS Chapter 471 and OAR chapter 845 divisions 5 and 6.

(2) Definitions. For this rule:

(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.

(3) The Commission may refuse to issue or renew a Full On-Premises Sales License for a Nonprofit 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 100 full members.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, ORS 471.175, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175

AMEND: 845-005-0325

RULE TITLE: License Refusal Reasons: Applicant Qualifications

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes criteria based on applicant qualifications on which the Commission may refuse a license.

RULE TEXT:

The Commission may refuse to license an applicant if any of the criteria in this rule apply. Upon a finding that a license should be refused, the Commission will consider intervening circumstances to determine whether the refusal basis is supported or overcome. The intervening circumstances may have occurred before or after the incident or incidents that are relevant to the specific criterion. The intervening circumstances may be weighed in favor of the applicant, weighed against the applicant, or weighed neither for nor against the applicant. The criteria are as follows:

(1) The applicant has a recent history or record of using alcohol or controlled substances to excess. Some of the records the Commission may use to evaluate this criterion include: court documents; Department of Motor Vehicles reports; police records; or medical records. Some of the intervening circumstances the Commission considers in determining whether the refusal basis is supported or overcome include: successful participation in treatment program(s); severity of the applicant's record; passage of time since last relevant incident; and the applicant's previous record of compliance with the laws and rules of the Commission.

(2) The applicant has been convicted of violating any general or local law of this state, or any other state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license. In determining whether the applicant presents an acceptable future risk of compliance, the Commission will consider applicable intervening circumstances that have occurred before or after the relevant incident or incidents.

(a) Definitions. For this subsection:

(A) "Compliance risk factors" means factors related to the individual's moral character or that show the individual's tendency to disobey laws, rules, and regulations; such as probation and parole violations and non-relevant convictions.

(B) "Relevant conviction" means a conviction that involved violence or the threat of violence; dishonesty or deception; drugs, alcohol, or other regulated substances; or a conviction as a felon in possession of a weapon.

(C) "Successful treatment" means:

(i) The Commission receives written confirmation from the individual's licensed treatment provider that the individual completed treatment that is related to a relevant conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the completion of the treatment; or

(ii) The individual is still in a treatment program that is related to a relevant conviction; however, the Commission receives written confirmation from the individual's licensed treatment provider that the individual has demonstrated sufficient success towards stopping the behavior that led to the conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the date the provider determined that the individual demonstrated sufficient success towards stopping the behavior that led to the conviction.

(b) Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following intervening circumstances and may consider other intervening circumstances, depending on the facts of the case:

(A) Passage of time from the date of the most recent incident that led to a relevant conviction or from the date of the most recent compliance risk factor, whichever date is later. In calculating the passage of time, the Commission does not count time spent incarcerated after the date of the most recent incident that led to a relevant conviction or after the date of the most recent compliance risk factor, whichever date is later.

(B) Compliance risk factors.

(C) Successful treatment.

(D) The severity of the individual's relevant conviction record as shown by both the number of convictions and whether a conviction was a felony or non-felony.

(E) The individual's record of compliance with the Commission.

(3) The applicant provides material false or misleading information to the Commission or omits material information that should have been provided to the Commission. Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following intervening circumstances and may consider other intervening circumstances, depending on the facts of the case:

(a) The number of false statements or omissions.

(b) Whether or not false statements or omission were repeated.

(c) The applicant's provision of conflicting reasons for a false statement or omission.

(d) If there are language or other communication issues between the applicant and the Commission.

(e) If the applicant has been warned or cautioned about the need for truthfulness.

(4) The applicant is under 21 years of age. The applicant may establish a basis to overcome this criterion by demonstrating that the applicant will not participate in the management or control of any alcohol-related business decisions or any employees responsible for the sale or service of alcoholic beverages.

(5) The applicant does not have a good record of compliance with ORS Chapter 471, 473, 474, 475B, or any rules adopted thereunder. Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following intervening circumstances and may consider other intervening circumstances, depending on the facts of the case:

(a) The passage of time since the most recent violation.

(b) The seriousness of the applicant's violation record.

(c) The personal involvement in a violation by the applicant.

(d) Whether the applicant immediately implemented control measures that effectively prevented future violations.

(e) Whether a violation was aggravated or mitigated.

(f) The applicant's acceptance of any relevant license restriction.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1)(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313

AMEND: 845-005-0326

RULE TITLE: License Not Demanded by Public Interest or Convenience

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Allows the Commission to deny a license that public interest or convenience does not demand.

RULE TEXT:

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 intervening circumstances exist to overcome the criteria:

(1) Proximity to Facilities:

(a) The licensed premises:

(A) Will be located within 500 feet within a city's limits or within 1,500 feet outside a city's limits of the boundary (measured property line to property line) of a licensed child care facility, elementary or secondary school, a church, a hospital, nursing care facility or convalescent care facility, a park or children-oriented recreational facility, or alcohol and other drug treatment or rehabilitation facility; and

(B) The facility shows the exercise of the license privileges at the licensed premises will interfere or conflict with the specialized activities of the facility.

(b) Some of the intervening circumstances the Commission considers in determining whether the refusal basis is supported or overcome is the applicant's control plan addressing its willingness and ability to control the proposed premises and patrons' behavior in the immediate vicinity of the premises.

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

(2) Problem Areas:

(a) The licensed premises will be located in an area that, within 500 feet of the premises and in the past 12 months, has at least 50 documented incidents of public drunkenness, fights, altercations, harassment, unlawful drug sales, alcohol-related litter, trespassing on private property, or public urination. These problems need not be alcohol-related;

(b) Some of the intervening circumstances the Commission considers in determining whether the refusal basis is supported or overcome are:

(A) The applicant's control plan showing that alcoholic beverage sale or service at the premises will not contribute to the problems, and

(B) The applicant's control plan addressing its willingness and ability to control the proposed premises and patrons' behavior in the immediate vicinity of the premises.

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

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313

REPEAL: 845-005-0329

RULE TITLE: Licensing Outdoor Areas Not Abutting a Licensed Building; Licensing Non-Abutting Intermittent and Limited Duration Expansion Areas

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Establishes licensing requirements for outdoor areas that do not about a licensed building.

RULE TEXT:

(1) This rule applies to an outdoor area that does not abut applicant's or licensee's licensed building and establishes the licensing qualifications for such an outdoor area. This rule also establishes licensing requirements for expanding the premises to non-abutting indoor and outdoor areas for a limited duration or on an intermittent basis. 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:

(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, written proof of legal access to the outdoor area;

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

(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.

(3) Non-abutting 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 expansion 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 expansion 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 area that does not abut the licensee's annually licensed premises to sell and serve alcohol at retail as allowed by the license provided the following are met:

(A) The expansion area is within 500 feet (measured property line to property line) of the annually licensed premises.

(B) The licensee has the permission of the landowner (private or public) to use the expansion area and the licensee has defined the boundaries of the expansion 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).

(C) The licensee uses the expansion area only during the days and times approved by the landowner.

(D) The licensee operates the current premises and the limited duration or intermittent expansion area as one licensed business.

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

(c) Expansion 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 expansion area as a part of the business. Licensee is subject to all OLCC liquor laws and rules in the expansion 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 expansion 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 expansion 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, the licensee must follow the restrictions in the limited duration or intermittent expansion area.

(g) For an expansion to an area not 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 in an expansion area not 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 471.030, 471.313, 471.315

REPEAL: 845-005-0331

RULE TITLE: Licensing Outdoor Areas Abutting a Licensed Building; Licensing Abutting Intermittent and Limited Duration Expansion Areas

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Establishes licensing requirements for outdoor areas that abut a licensed building.

RULE TEXT:

(1) This rule applies to an outdoor area that abuts an applicant's or licensee's licensed building and establishes the licensing qualifications for such an outdoor area. This rule also establishes licensing requirements for expanding the premises to abutting indoor and outdoor areas for a limited duration or on an intermittent basis. 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, written proof of legal access to the outdoor area;

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

(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

(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) Abutting 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 expansion 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 expansion 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 expansion area that abuts the licensee's licensed premises to sell and serve alcohol at retail as allowed by the license provided the following are met:

(A) The licensee has the permission of the landowner (private or public) to use the expansion area and the licensee has defined the boundaries of the expansion 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 expansion 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) Expansion 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 expansion area as a part of the business. Licensee is subject to all OLCC liquor laws and rules in the expansion 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 expansion 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 expansion area 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, the licensee must follow the restrictions in the limited duration or intermittent expansion area.
- (g) For an expansion to an 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 in an expansion 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

AMEND: 845-005-0360

RULE TITLE: License Renewal: Requirement for Applicants

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for the renewal of a license.

RULE TEXT:

(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 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.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.155, 471.311, 471.313, 471.168

AMEND: 845-005-0366

RULE TITLE: License Surrender

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process to surrender a license.

RULE TEXT:

(1) To surrender a license issued under ORS Chapter 471:

(a) A licensee must submit a written request to the Commission on a form and in a manner provided by the Commission;
and

(b) The Commission must approve the request.

(2) The surrender of the license is effective on the date the Commission approves it.

(3) The effective date of the license surrender may be no earlier than the date the Commission receives it.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.292

AMEND: 845-005-0400

RULE TITLE: Liquor Liability Insurance or Bond Requirement

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the liquor liability insurance or bond requirement.

RULE TEXT:

Certain licensees are required to maintain liquor liability insurance or a bond. Failure to maintain the required liquor liability insurance or bond constitutes a serious threat to public health and safety. This rule explains the liquor liability insurance or bond requirement and sanctions.

(1) Requirement. The Commission will refuse to license any applicant, may cancel or suspend the license of any licensee, and may sanction any licensee that is subject to the requirements of this rule and fails to:

(a) Maintain liquor liability insurance of not less than \$300,000 and designate and maintain the Commission as a certificate holder on the certificate of insurance;

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

(c) If a governing body of a local public body, maintain self-insurance as allowed by ORS 30.282, maintain liquor liability insurance of not less than \$300,000, or maintain a liquor liability bond with a corporate surety authorized to transact business in this state in the amount of not less than \$300,000.

(2) Applicability. This rule applies to the following license types:

(a) Full on-premises sales license;

(b) Limited on-premises sales license;

(c) Brewery-public house license;

(d) Temporary sales license, special events winery license, special events grower sales privilege license, special events brewery-public house license, special events brewery, and special events distillery licenses if the licensed event is open to the public and attendance at the event is anticipated to exceed 300 individuals per day; and

(e) Winery license, brewery license and grower sales privilege license unless the applicant or licensee submits an affidavit to the Commission stating consumption of alcoholic beverages will not occur on the licensed premises.

(3) Providing Proof of Insurance or Bond at Issuance of a License. An applicant for the issuance of a license listed in subsection (2) must provide to the Commission:

(a) Proof of Insurance. The applicant must provide to the Commission a certificate of insurance that shows the applicant as the named insured, the premises address, liquor liability insurance coverage in the amount of at least \$300,000, that coverage is current, and lists the Commission as a certificate holder. Notwithstanding this requirement, the Commission may require an applicant for a license issued on a non-annual basis to provide to the Commission the name of the insurance company and insurance policy number;

(b) Proof of Bond. The applicant must provide to the Commission the corporate surety with a valid bond identification number; or

(c) Proof of Self-Insurance. When the applicant is the governing body of a local public body, the applicant may provide to the Commission proof of self-insurance as allowed by ORS 30.282.

(4) Providing Proof of Insurance or Bond at License Renewal. An applicant for the renewal of a license listed in subsection (2) must provide to the Commission prior to the Commission renewing the license:

(a) Proof of Insurance. The applicant must provide to the Commission the name of the insurance company and the insurance policy number. Notwithstanding this requirement, the Commission may require the applicant to provide a certificate of insurance showing the applicant as the named insured, the premises address, liquor liability insurance coverage in the amount of at least \$300,000, that coverage is current, and lists the Commission as a certificate holder;

(b) Proof of Bond. The applicant must provide to the Commission the corporate surety and a valid bond identification number; or

(c) Proof of Self-Insurance. When the applicant is the governing body of a local public body, the applicant may provide

to the Commission proof of self-insurance as allowed by ORS 30.282.

(5) Providing Proof of Insurance or Bond Other Than at Licensing or License Renewal.

(a) The licensee must maintain valid and current proof of insurance or bond as described in section (3) of this rule at the licensed premises and:

(A) Post the proof of insurance or bond in full public view; or

(B) Make the proof of insurance or bond available at any time for immediate inspection by any Commission employee.

(b) Failure to post or provide proof of insurance or bond as required in this section is a Category V violation, and if the licensee also has a lapse in insurance or bond coverage, the Commission may assess a separate sanction as per subsection (7) of this rule.

(6) Immediate Suspension. If a licensee fails to provide to the Commission proof of insurance or bond the Commission may immediately suspend the license pursuant to ORS 471.168. The Commission may rescind the Order of Immediate Suspension once the Commission determines that the licensee has provided proof of valid and current insurance or bond as per subsections (5 (a) and (7)(c) of this rule.

(7) Failure to maintain insurance or bond as required is a violation. The sanction for the first lapse in coverage within a two year period is as follows:

(a) If the lapse in coverage is no more than 30 days the sanction is \$1,650 or a 10 day license suspension.

(b) If the lapse of coverage is 31 days to no more than 60 days the sanction is \$4,950 or a 30 day license suspension.

(c) If the lapse of coverage is 61 days to no more than 90 days the sanction is \$4,950 and a 90 day license suspension. In addition, the licensee must provide to the Commission proof of premium payment for at least a 12-month period for the statutory minimum insurance and/or bond limits set forth in ORS 471.168.

(8) The sanction for any lapse in coverage not described in section (7) is cancellation of the license.

(9) Aggravating or mitigating circumstances. In addition to the Commission's other aggravating and mitigating circumstances, when the Commission discovers a lapse in coverage, the Commission may mitigate the sanction if the Commission determines that the cause for failure to maintain liquor liability insurance or bond as per subsection (1) of this rule was beyond the reasonable control of the licensee. One method for showing the cause for failure to maintain liquor liability insurance or bond was beyond the reasonable control of the licensee is for the Commission to determine that the licensee has provided sufficient proof to the Commission that the licensee has continued to pay for coverage during the period of the lapse.

(10) Cessation of Coverage. A licensee may elect not to maintain liquor liability insurance or bond coverage, but only if the licensee will cease the sale and service of alcohol and prohibit the consumption of alcoholic beverages on the licensed premises for at least 90 contiguous days and the licensee provides the Commission with prior written notice of the start and end date of the cessation of the sale and service of alcohol. Failure to notify the Commission is a Category IV violation and is in addition to separate violations that may be charged for operating without coverage.

STATUTORY/OTHER AUTHORITY: ORS 183.430, 471.030, 471.040, ORS 471.168, 471.313, 471.315, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.168, 471.313(2), 471.315(1)(a)(C)

ADOPT: 845-005-0401

RULE TITLE: Exemption from License Requirement by Technology Providers

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: To allow technology providers to advertise alcoholic beverage products to consumers and accept orders and payment for alcoholic beverages from consumers without a license issued under ORS chapter 471 provided the activity is done on the behalf of the Commission, licensees, permittees, distillery retail outlet agents, or retail sales agents.

RULE TEXT:

(1) For the purposes of this rule:

(a) "Final consumer" means an individual who is at least 21 years of age taking possession of alcoholic beverages for personal or social use and not for resale.

(b) "Technology provider" means a person who facilitates, or holds itself out as willing facilitate, sales of alcoholic beverages from the Commission, licensees, retail sales agents, distillery retail outlet agents, or permit holders to a final consumer by using technology such as, but not limited to, a website, mobile application, or other electronic service.

(2) A technology provider acting on behalf of the Commission or a licensee, retail sales agent, distillery retail outlet agents or permit holder may:

(a) Import, or cause to be imported, into Oregon alcoholic beverages that are being delivered, on in transit to be delivered, to a final consumer;

(b) Store or hold alcoholic beverages that are being delivered, on in transit to be delivered, to a final consumer;

(c) Advertise alcoholic beverages available for sale to a final consumer from the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder;

(d) Solicit, receive, and accept orders for alcoholic beverages from final consumers; and

(e) Receive payment for alcoholic beverages ordered by final consumers.

(3) A technology provider may engage in an activity described in section (2) of this rule only if the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder:

(a) Controls, with clear and conspicuous messaging, the advertising of its alcoholic beverages offered for sale and delivery through the technology provider, including but not limited to:

(A) The price of the available alcoholic beverages; and

(B) Identifying the name of the seller of the alcoholic beverages and messaging that:

(i) The offer and sale of the alcoholic beverages is by the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder; and

(ii) The payment made by the final consumer for an alcoholic beverage is paid to the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder.

(C) Following all advertising rules of the Commission.

(b) Controls the acceptance of orders for alcoholic beverages from final consumers;

(c) Receives and retains all payments for alcoholic beverages; and

(d) Provides to the final consumer or to the technology provider for delivery to a final consumer only the types of alcoholic beverages allowed by the license, retail sales agent, distillery retail outlet agent, or permit.

(4) A technology provider may charge the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder a fee for its services.

(5) A technology provider acting on behalf of the Commission or a licensee, retail sales agent, distillery retail outlet agents or permit holder and providing services pursuant to subsections (2) – (4) of this rule is exempt from obtaining a license under ORS chapter 471.

(6) A technology provider may deliver, or arrange for the delivery of, alcoholic beverages on behalf of the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder to a final consumer only if it:

(a) Is approved as a for-hire carrier under OAR 845-005-0424; or

(b) Uses a for-hire carrier approved under OAR 845-005-0424.

(7) A licensee, retail sales agent, distillery retail outlet agent, or permit holder using a technology provider may be held responsible for the technology provider's failure to follow the requirements of this rule.

(8) Nothing in this rule allows:

(a) A financial connection of the type prohibited by statute or rule between licensees, retail sales agents, distillery retail outlet agents, or permit holders unless allowed by exception;

(b) Any financial assistance of the type prohibited by statute or rule between any licensees, retail sales agents, distillery retail outlet agents, or permit holders unless allowed by exception.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.405(3), 471.406

AMEND: 845-005-0405

RULE TITLE: Full or Limited On-Premises Licensee Temporary Off-Premises Private Catered Events

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining the Commission's pre-approval for temporary off-premises private events.

RULE TEXT:

(1) ORS 471.184 allows the holder of a Full On-Premises or Limited On-Premises license to cater temporary events at locations other than the licensee's annually premises. This rule refers to these events as temporary off-premises private catered events. A Full On-Premises, Cater license under ORS 471.175(2)(e) is issued with general pre-approval from the Commission to conduct temporary off-premises private catered events. A licensee without general pre-approval from the Commission to conduct temporary off-premises private catered events must:

(a) Obtain general pre-approval from the Commission prior to conducting temporary off-premises private catered events; or
(b) Give the Commission specific written notice at least five calendar days prior to each temporary off-premises private catered event. The notice must include the event date, duration of the event, expected attendance, exact location, and a description of the type of event.

(2) At a temporary off-premises private catered event, the licensee may:

(a) Sell and serve the alcoholic beverages permitted by the license for on-premises consumption.
(b) Sell factory-sealed containers of wine, malt beverages, and cider at retail for consumption off the licensed premises.
(c) Sell, in securely covered containers supplied by the consumer and having a capacity of not more than two gallons each, wine, malt beverages, or cider for off-premises consumption.
(d) Deliver wine, malt beverages, and cider sold under (b) and (c) of this section to a resident of Oregon. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.

(3) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;
(b) "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;
(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day.
(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "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.

(f) "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.

(4) For purposes of this rule, temporary off-premises private catered events are events where:

(a) There is a contract between a client and the licensee to provide meals as required by OAR 845-006-0462 for a specific number of guests or participants;

(b) The event is not open to the general public;

(c) The licensee is not the client;

(d) Alcoholic beverage service is only in conjunction with food service; and

(e) The provision of alcoholic beverages at the catered event must not be more than one license day's duration unless

the event is a closed conference or seminar.

(5) To obtain general pre-approval from the Commission for temporary off-premises private catered events, an applicant must submit the following forms, documents, and information to the Commission:

(a) A completed application form provided by the Commission containing all information and signatures required by the form.

(b) Confirmation of compliance with the food service standards of OAR 845-006-0462.

(c) A written plan the Commission determines adequately manages events to:

(A) Prevent problems and violations;

(B) Control patronage by minors as set out in this rule; and

(C) Prevent over-service of alcoholic beverages to patrons.

(6) After an applicant has submitted the application materials required by subsection (5) of this rule, the Commission may:

(a) Require additional forms, documents, or information from the applicant where there is reason to believe that the forms, documents, or information are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.

(b) Inactivate the application at any time when the Commission determines:

(A) One or more of the required materials, forms, documents, or information are missing or are not complete, accurate, legible, or correct;

(B) The applicant fails to provide to the Commission all required materials, forms, documents, and information in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant;

(C) The plan submitted by the applicant to manage the event is not adequate; or

(D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.

(7) A plan for managing patronage by minors under this rule must meet the following requirements:

(a) If the temporary off-premises private catered event will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the temporary off-premises private catered event will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(8) Minors are prohibited from the temporary off-premises private catered event licensed premises or portions of the temporary off-premises private catered event licensed premises as follows:

(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 an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(9) The Commission may deny, cancel or restrict general pre-approval of temporary off-premises private catered events for any reason for which the Commission may deny, cancel or restrict a regular license.

(10) The Commission may deny, cancel, or restrict general pre-approval of temporary off-premises private catered events if the licensee has a serious violation history at temporary off-premises private catered events within the past 36 months.

(11) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(12) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from

gaining access to any portion of the temporary off-premises private catered event's licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.
(13) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements of ORS chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.184

AMEND: 845-005-0410

RULE TITLE: Full or Limited On-Premises Licensee Temporary Use of an Annual License Events

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining a temporary use of an annual license.

RULE TEXT:

(1) ORS 471.184(2) allows the holder of a Full On-Premises or Limited On-Premises license to exercise the privileges of the license at temporary events held at locations other than the licensed premises. This rule refers to these events as temporary use of an annual license. The licensee must obtain approval from the Commission prior to conducting each temporary use of an annual license event.

(2) Definitions. For this rule:

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

(b) "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;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day. The license fee as required by ORS 471.311 is per license day or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors.

However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "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.

(f) "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.

(3) At a temporary use of an annual license event, the licensee may:

(a) Sell and serve the alcoholic beverages permitted by the license for on-premises consumption.

(b) Sell factory-sealed containers of wine, malt beverages, and cider at retail for consumption off the licensed premises.

(c) Sell, in securely covered containers supplied by the consumer and having a capacity of not more than two gallons each, wine, malt beverages, or cider for off-premises consumption.

(d) Deliver wine, malt beverages, and cider sold under (b) and (c) of this section to a resident of Oregon. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.

(4) An applicant for temporary use of an annual license must submit the following forms, documents, information, or fees to the Commission:

(a) A completed application form provided by the Commission containing all information and signatures required by the form, including but not limited to:

(A) The local government recommendation;

(B) Documentation from the local government that the applicant provided written notice to the local government; or

(C) Documentation from the local government that the applicant is not required to submit the application to the local government.

(b) The license fee as described in ORS chapter 471.311.

(c) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.

(d) A written plan the Commission determines adequately manages events to:

(A) Prevent problems and violations;

(B) Control patronage by minors as set out in this rule; and

- (C) Prevent over-service of alcoholic beverages to patrons.
- (e) Identification of at least one individual responsible for managing the licensed premises.
- (f) Identification of the premises or area proposed to be licensed.
- (g) Confirmation of compliance with the food service standards of OAR 845-006-0462.
- (h) Information regarding the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, proposed hours of food service, and proposed hours of operation.
- (5) The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days.
- (6) After an applicant has submitted the application materials required by subsection (4) of this rule, the Commission may:
 - (a) Require additional forms, documents, information, or fees from the applicant where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.
 - (b) At any time, inactivate the application when the Commission determines:
 - (A) One or more of the required materials, forms, documents, information, or fees are missing or are not complete, accurate, legible, or correct;
 - (B) The applicant fails to provide to the Commission all required materials, forms, documents, information, and fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee;
 - (C) The plan submitted by the applicant to manage the event is not adequate; or
 - (D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.
 - (7) A plan for managing patronage by minors under this rule must meet the following requirements:
 - (a) If the temporary use of an annual licensed premises will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
 - (b) If the temporary use of an annual licensed premises will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
 - (8) Minors are prohibited from the temporary use of an annual licensed premises or portions of the licensed premises as follows:
 - (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 an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;
 - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (9) The Commission may deny, cancel or restrict a temporary use of an annual license for any reason for which the Commission may deny, cancel or restrict a regular license.
- (10) The Commission may deny or restrict a temporary use of an annual license if the applicant has a serious violation history within the past 36 months.
- (11) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.
- (12) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the temporary use licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.
- (13) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements

of ORS chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.184

AMEND: 845-005-0412

RULE TITLE: Special Events Brewery License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining a special events brewery license.

RULE TEXT:

(1) ORS 471.221 authorizes the Commission to issue a Special Events Brewery (SEB) license to an Oregon Brewery licensee. This rule sets the qualifications and requirements for an SEB license.

(2) Definitions.

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

(b) "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;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day. The license fee as required by ORS 471.311 is per license day or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "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.

(f) "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.

(3) Only the holder of a Brewery license issued under ORS 471.221 may qualify for a SEB license. The SEB license is only for a location other than that designated as the Brewery licensee's annually licensed premises and allows the licensee to:

(a) Sell and serve wine, malt beverages, and cider for on-premises consumption.

(b) Sell factory-sealed containers of wine, malt beverages, and cider at retail for consumption off the licensed premises.

(c) Sell, in securely covered containers supplied by the consumer and having a capacity of not more than two gallons each, wine, malt beverages, or cider for off-premises consumption.

(d) Deliver wine, malt beverages, and cider sold under (b) and (c) of this section to a resident of Oregon. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.

(4) An applicant for an SEB license must submit the following forms, documents, information, or fees to the Commission:

(a) A complete application form provided by the Commission containing all information and signatures required by the form, including but not limited to:

(A) The local government recommendation;

(B) Documentation from the local government that the applicant provided written notice to the local government; or

(C) Documentation from the local government that the applicant is not required to submit the application to the local government.

(b) The license fee as described in ORS Chapter 471.311.

(c) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.

(d) A written plan the Commission determines adequately manages events to:

(A) Prevent problems and violations;

(B) Control patronage by minors as set out in this rule; and

(C) Prevent over-service of alcoholic beverages to patrons.

- (e) Identification of at least one individual responsible for managing the licensed premises.
 - (f) Identification of the premises or area proposed to be licensed.
 - (g) Confirmation of compliance with the food service standards of OAR 845-006-0465.
 - (h) Information regarding the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, proposed hours of food service, and proposed hours of operation.
- (5) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.
- (6) After an applicant has submitted the application materials required by subsection (4) of this rule, the Commission may:
- (a) Require additional forms, documents, information, or fees from an applicant, licensee, or other persons where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.
 - (b) At any time, inactivate the application, and the inactivation is not subject to the requirements of ORS Chapter 183, when the Commission determines:
 - (A) One or more of the materials, forms, documents, information, or fees required by law or rule are missing or are not complete, accurate, legible, or correct;
 - (B) The applicant or licensee fails to provide to the Commission all required materials, forms, documents, information, or fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee;
 - (C) The plan submitted by the applicant to manage the event is not adequate; or
 - (D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.
 - (7) A plan for managing patronage by minors under this rule must meet the following requirements:
 - (a) If the SEB license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
 - (b) If the SEB license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
 - (8) Minors are prohibited from the SEB licensed premises or portions of the licensed premises as follows:
 - (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 an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;
 - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
 - (9) The Commission may deny, cancel or restrict a SEB license for any reason for which the Commission may deny, cancel or restrict a regular license.
 - (10) The Commission may deny or restrict a SEB license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.
 - (11) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.
 - (12) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.221

AMEND: 845-005-0413

RULE TITLE: Special Events Distillery License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining a special events distiller license.

RULE TEXT:

(1) ORS 471.230 authorizes the Commission to issue a Special Events Distillery (SED) license to an Oregon Distillery licensee. This rule sets the qualifications and requirements for an SED license.

(2) Definitions. For this rule:

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

(b) "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;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day. The license fee as required by ORS 471.311 is per license day or any part of a license day.

(d) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product on the distillery licensed premises in Oregon.

(e) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(f) "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.

(g) "Trade visitor" means a person whose job includes the purchase, or recommended purchase, of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(h) "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.

(3) Only the holder of a Distillery license issued under ORS 471.230 may qualify for a Special Events Distillery license.

(a) A distillery licensee providing tastings of distilled liquor for retailers at an educational seminar that is not open to the public is not required to obtain a SED and is subject to OAR 845-013-0060.

(b) A distillery licensee providing tastings of distilled liquor at a retail liquor store must follow OAR 845-015-0155. A distillery licensee is not eligible for a SED at a retail liquor store.

(4) An applicant for an SED license must submit the following forms, documents, information, or fees to the Commission:

(a) A complete application form provided by the Commission containing all information and signatures required by the form, including but not limited to:

(A) The local government recommendation;

(B) Documentation from the local government that the applicant provided written notice to the local government; or

(C) Documentation from the local government that the applicant is not required to submit the application to the local government.

(b) The license fee as described in ORS Chapter 471.311.

(c) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.

(d) A written plan the Commission determines adequately manages events to:

(A) Prevent problems and violations;

(B) Control patronage by minors as set out in this rule; and

- (C) Prevent over-service of alcoholic beverages to patrons.
- (e) Identification of at least one individual responsible for managing the licensed premises.
- (f) Identification of the premises or area proposed to be licensed.
- (g) Confirmation of compliance with the food service standards of OAR 845-006-0465.
- (h) Information regarding the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, proposed hours of food service, and proposed hours of operation.
- (5) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.
- (6) After an applicant has submitted the application materials required by subsection (4) of this rule, the Commission may:
 - (a) Require additional forms, documents, information, or fees from an applicant, licensee, or other persons where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.
 - (b) At any time, inactivate the application, and the inactivation is not subject to the requirements of ORS Chapter 183, when the Commission determines:
 - (A) One or more of the materials, forms, documents, information, or fees required by law or rule are missing or are not complete, accurate, legible, or correct;
 - (B) The applicant or licensee fails to provide to the Commission all required materials, forms, documents, information, or fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee;
 - (C) The plan submitted by the applicant to manage the event is not adequate; or
 - (D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.
 - (7) A plan for managing patronage by minors under this rule must meet the following requirements:
 - (a) If the SED license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
 - (b) If the SED license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
 - (8) Minors are prohibited from the SED licensed premises or portions of the licensed premises as follows:
 - (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 an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;
 - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (9) The Commission may deny, cancel or restrict a SED license for any reason for which the Commission may deny, cancel or restrict a regular license.
- (10) The Commission may deny or restrict a SED license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.
- (11) The Commission shall limit the issuance of a SED license to the same applicant at the same location to no more than 62 license days from January 1 to December 31 of each year.
- (12) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.
- (13) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit

minors from the licensed premises or portion(s) of the premises.

(14) A distillery licensee with a SED may:

(a) Permit tastings of distilled liquor approved by the Commission for sale in Oregon. The taste must contain distilled liquor manufactured in Oregon by the distillery licensee. Once the taste contains distilled liquor manufactured in Oregon by the distillery licensee, the taste may contain other distilled liquor approved by the Commission for sale in Oregon and may also include malt beverages, wine, cider, and non-alcoholic liquids.

(A) The distillery licensee must pay the Commission a processing fee for any distilled liquor in the taste that is manufactured by the distillery licensee and is obtained from the inventory of the Commission.

(B) The distillery licensee must purchase at the retail price set by the Commission any distilled liquor in the taste that was not manufactured by the distillery licensee.

(b) Permit sales by the drink of distilled liquor approved by the Commission for sale in Oregon. The drink must contain distilled liquor manufactured in Oregon by the distillery licensee. Once the drink contains distilled liquor manufactured in Oregon by the distillery licensee, the drink may contain other distilled liquor approved by the Commission for sale in Oregon and may also include malt beverages, wine, cider, and non-alcoholic liquids. The distillery licensee must purchase the distilled liquor that the licensee uses for sales by the drink at the event at the retail price set by the Commission for the month in which the distilled liquor is sold by the drink.

(c) If the distillery licensee has been appointed as a distillery retail outlet agent, sell factory-sealed containers of distilled liquor manufactured by the licensee for consumption off the licensed premises of the event. The distillery licensee must purchase and sell the factory-sealed containers in accordance with the terms of the Distillery Retail Outlet Agent Agreement and the Commission's Distillery Retail Outlet Manual.

(15) Tastings provided to the general public.

(a) A tasting provided to the general public shall be no more than one-half fluid ounce of distilled liquor in a single container. The container may also contain malt beverage, wine, cider, and nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A licensee may charge a member of the general public a fee for tastings.

(b) A distillery licensee shall not provide more than two and one-half fluid ounces of distilled liquor per person per license day.

(16) Tastings provided to a trade visitor.

(a) A tasting provided to a trade visitor shall be no more than one fluid ounce of distilled liquor in a single container. The container may also contain malt beverage, wine, cider, and nonalcoholic beverages; however, the total amount of liquid in the container may be no more than three ounces. A licensee may not charge a trade visitor a fee for tastings.

(b) There is no daily limit on distilled liquor tastings provided to a trade visitor.

(c) Trade visitors must be distinguished from members of the general public. For example, providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, using distinctive glassware for trade visitors, or using badges or name tags to identify trade visitors could be ways a licensee complies with this requirement.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.230

AMEND: 845-005-0414

RULE TITLE: Special Events Brewery-Public House License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining a special events brewery-public house license.

RULE TEXT:

(1) ORS 471.200 authorizes the Commission to issue a Special Events Brewery-Public House (SEBPH) license to an Oregon Brewery-Public House licensee. This rule sets the qualifications and requirements for an SEBPH license.

(2) Definitions. For this rule:

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

(b) "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;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day. The license fee as required by ORS 471.311 is per license day or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "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.

(f) "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.

(3) Only the holder of a Brewery-Public House license issued under ORS 471.200 may qualify for a Special Events Brewery-Public House license. The SEBPH license is only for a location other than that designated as the Brewery-Public House licensee's annually licensed premises and allows the licensee to:

(a) Sell and serve wine, malt beverages, and cider for on-premises consumption.

(b) Sell factory-sealed containers of wine, malt beverages, and cider at retail for consumption off the licensed premises.

(c) Sell, in securely covered containers supplied by the consumer and having a capacity of not more than two gallons each, wine, malt beverages, or cider for off-premises consumption.

(d) Deliver wine, malt beverages, and cider sold under (b) and (c) of this section to a resident of Oregon. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.

(4) An applicant for an SEBPH license must submit the following forms, documents, information, or fees to the Commission:

(a) A complete application form provided by the Commission containing all information and signatures required by the form, including but not limited to:

(A) The local government recommendation;

(B) Documentation from the local government that the applicant provided written notice to the local government; or

(C) Documentation from the local government that the applicant is not required to submit the application to the local government.

(b) The license fee as described in ORS Chapter 471.311.

(c) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.

(d) A written plan the Commission determines adequately manages events to:

(A) Prevent problems and violations;

(B) Control patronage by minors as set out in this rule; and

- (C) Prevent over-service of alcoholic beverages to patrons.
- (e) Identification of at least one individual responsible for managing the licensed premises.
- (f) Identification of the premises or area proposed to be licensed.
- (g) Confirmation of compliance with the food service standards of OAR 845-006-0465.
- (h) Information regarding the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, proposed hours of food service, and proposed hours of operation.
- (5) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.
- (6) After an applicant has submitted the application materials required by subsection (4) of this rule, the Commission may:
 - (a) Require additional forms, documents, information, or fees from an applicant, licensee, or other persons where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.
 - (b) At any time, inactivate the application, and the inactivation is not subject to the requirements of ORS Chapter 183, when the Commission determines:
 - (A) One or more of the materials, forms, documents, information, or fees required by law or rule are missing or are not complete, accurate, legible, or correct;
 - (B) The applicant or licensee fails to provide to the Commission all required materials, forms, documents, information, or fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee;
 - (C) The plan submitted by the applicant to manage the event is not adequate; or
 - (D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.
 - (7) A plan for managing patronage by minors under subsection (5)(a) of this rule must meet the following requirements:
 - (a) If the SEBPH license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
 - (b) If the SEBPH license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
 - (8) Minors are prohibited from the SEBPH licensed premises or portions of the licensed premises as follows:
 - (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 an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;
 - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (9) The Commission may deny, cancel or restrict a SEBPH license for any reason for which the Commission may deny, cancel or restrict a regular license.
- (10) The Commission may deny or restrict a SEBPH license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.
- (11) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.
- (12) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.200

AMEND: 845-005-0415

RULE TITLE: Special Event Winery and Special Event Grower Sales Licenses

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining a special events winery or special events grower sales privilege license.

RULE TEXT:

(1) ORS 471.223 authorizes the Commission to issue a Special Events Winery (SEW) license to a Winery licensee. The special license may allow the licensee to sell at retail wine, malt beverages and cider allowed to be sold under the annual Winery license:

- (a) For on-premises consumption.
- (b) For consumption off the licensed premises in factory-sealed containers.
- (c) For consumption off the licensed premises in securely covered containers supplied by the consumer and having a capacity of not more than two gallons each.
- (d) And deliver wine, malt beverages, and cider sold under (b) and (c) of this section to a resident of Oregon. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.

(2) ORS 471.227 authorizes the Commission to issue a Special Events Grower (SEG) license to a Grower Sales Privilege licensee. The special license may allow the licensee to sell at retail wine, malt beverages and cider allowed to be sold under the annual Grower Sales Privilege license:

- (a) For on-premises consumption.
- (b) For consumption off the licensed premises in factory-sealed containers.
- (c) For consumption off the licensed premises in securely covered containers supplied by the consumer and having a capacity of not more than two gallons each.
- (d) And deliver wine, malt beverages, and cider sold under (b) and (c) of this section to a resident of Oregon. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.

(3) Definitions. For this rule:

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

(b) "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;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day. The license fee as required by ORS 471.311 is per license day or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "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.

(f) "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.

(4) An applicant for an SEW or SEG license must submit the following forms, documents, information, or fees to the Commission:

(a) A complete application form provided by the Commission containing all information and signatures required by the form, including but not limited to:

(A) The local government recommendation;

- (B) Documentation from the local government that the applicant provided written notice to the local government; or
- (C) Documentation from the local government that the applicant is not required to submit the application to the local government.
- (b) The license fee as described in ORS Chapter 471.311.
- (c) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.
- (d) A written plan the Commission determines adequately manages events to:
 - (A) Prevent problems and violations;
 - (B) Control patronage by minors as set out in this rule; and
 - (C) Prevent over-service of alcoholic beverages to patrons.
- (e) Identification of at least one individual responsible for managing the licensed premises.
- (f) Identification of the premises or area proposed to be licensed.
- (g) Confirmation of compliance with the food service standards of OAR 845-006-0465.
- (h) Information regarding the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, proposed hours of food service, and proposed hours of operation.
- (5) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.
- (6) After an applicant has submitted the application materials required by subsection (4) of this rule, the Commission may:
 - (a) Require additional forms, documents, information, or fees from an applicant, licensee, or other persons where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.
 - (b) At any time, inactivate the application, and the inactivation is not subject to the requirements of ORS Chapter 183, when the Commission determines:
 - (A) One or more of the materials, forms, documents, information, or fees required by law or rule are missing or are not complete, accurate, legible, or correct;
 - (B) The applicant or licensee fails to provide to the Commission all required materials, forms, documents, information, or fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee;
 - (C) The plan submitted by the applicant to manage the event is not adequate; or
 - (D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.
 - (7) A plan for managing patronage by minors under this rule must meet the following requirements:
 - (a) If the special license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
 - (b) If the special license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
 - (8) Minors are prohibited from the special licensed premises or portions of the licensed premises as follows:
 - (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 an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;
 - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (9) 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.

(10) The Commission may deny or restrict a special license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.

(11) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(12) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.223, 471.227

AMEND: 845-005-0440

RULE TITLE: Temporary Sales Licenses

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining a temporary sales license.

RULE TEXT:

- (1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.
- (2) Definitions. For this rule:
- (a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.
- (b) "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.
- (c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day. The license fee as required by ORS 471.311 is per license day or any part of a license day.
- (d) "Nonprofit trade association" means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.
- (e) "Serious violation history" means:
- (A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or
- (B) One category I, II or IIa administrative violation; or
- (C) Two or more crimes or offenses involving liquor laws.
- (f) "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.
- (g) "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.
- (3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License. Temporary Sales Licenses are issued in increments of one license day. The Commission may issue a Temporary Sales License only to applicants that qualify under the Commission's licensing standards and that are:
- (a) A nonprofit or charitable organization that is registered with the state; or
- (b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or
- (c) An agency of the State; or
- (d) A local government or an agency or department of a local government; or
- (e) Any applicant not described in (3)(a)–(3)(d) of this subsection, including eligible licensees of the Commission.
- (4) The Commission will not approve more than thirty license days on a single application submitted by an applicant identified in (3) (a), (c) or (d). The Commission may limit approval of any application to a single license day or to any number of license days fewer than thirty days.
- (5) The Commission will not approve more than seven license days on a single application submitted by an applicant identified in (3) (b) or (e). The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days.
- (6) A Temporary Sales License authorizes the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All wine, malt beverages and cider sold for consumption off the licensed premises must be in either:
- (a) Factory-sealed containers; or

- (b) Securely covered containers provided by the consumer that do not hold more than two gallons each.
- (7) A Temporary Sales License authorizes the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.
- (8) An applicant for Temporary Sales License must submit the following forms, documents, information, or fees to the Commission:
 - (a) A complete application form provided by the Commission containing all information and signatures required by the form, including but not limited to:
 - (A) The local government recommendation;
 - (B) Documentation from the local government that the applicant provided written notice to the local government; or
 - (C) Documentation from the local government that the applicant is not required to submit the application to the local government.
 - (b) The license fee as described in ORS Chapter 471.311.
 - (c) Proof of liquor liability insurance or bond as required by ORS 471.168 or Commission rules.
 - (d) A written plan the Commission determines adequately manages events to:
 - (A) Prevent problems and violations;
 - (B) Control patronage by minors as set out in this rule; and
 - (C) Prevent over-service of alcoholic beverages to patrons.
 - (e) Identification of at least one individual responsible for managing the licensed premises.
 - (f) Identification of the premises or area proposed to be licensed.
 - (g) Confirmation of compliance with the food service standards of OAR 845-006-0465.
 - (h) Information regarding the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, proposed hours of food service, and proposed hours of operation.
- (9) After an applicant has submitted the application materials required by subsection (8) of this rule, the Commission may:
 - (a) Require additional forms, documents, information, or fees from an applicant, licensee, or other persons where there is reason to believe that the forms, documents, information, or fees are required by law or rule or may help the Commission determine the merits of an application or to otherwise perform its statutory duties.
 - (b) At any time, inactivate the application, and the inactivation is not subject to the requirements of ORS Chapter 183, when the Commission determines:
 - (A) One or more of the materials, forms, documents, information, or fees required by law or rule are missing or are not complete, accurate, legible, or correct;
 - (B) The applicant or licensee fails to provide to the Commission all required materials, forms, documents, information, or fees in a manner that are complete, accurate, legible, and correct within 10 calendar days of the Commission's notice to the applicant or licensee;
 - (C) The plan submitted by the applicant to manage the event is not adequate; or
 - (D) The applicant's submission of the application materials did not allow the Commission sufficient processing time prior to the event date.
- (10) A plan for managing patronage by minors under this rule must meet the following requirements:
 - (a) If the Temporary Sales License will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation or tightening of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.
 - (b) If the Temporary Sales License will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.
- (11) Minors are prohibited from the licensed premises or portions of the licensed premises as follows;

- (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 an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.
 - (c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.
- (12) Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:
- (a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:
 - (A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in factory-sealed containers for off-premises consumption; or
 - (B) Sell items, such as tokens or scrip, to be redeemed for alcoholic beverages or food at the event.
 - (b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.
- (13) Alcohol servers at locations licensed under subsections (3)(b)–(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection (14) of this rule.
- (14) The Commission may waive the service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(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.
- (15) At events licensed under subsection (3)(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.
- (16) 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.
- (17) The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.
- (18) The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.
- (19) When the Commission approves a written plan under this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.
- (20) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.
- (21) A Temporary Sales License may authorize the licensee to deliver, or cause to be delivered, factory-sealed and securely-covered containers of malt beverages, wine, or cider direct to a resident of Oregon.

(a) Malt beverages, wine, or cider may only be delivered on a licensed day.

(b) A temporary sales licensee must comply with OAR 845-006-0392 for the delivery of wine or cider and must comply with OAR 845-006-0396 for the delivery of malt beverages.

(22) A Temporary Sales License issued under subsections (3)(a)(c) or (d) of this rule may have more than one address on a single license application as part of a single licensed premises, provided that all addresses are located within the same local government jurisdiction. The Commission may refuse to process an application containing addresses for more than one local government jurisdiction.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.190, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.190, 471.360, 471.482

AMEND: 845-005-0445

RULE TITLE: Temporary Letter of Authority to Operate

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the process for obtaining a temporary letter of authority to operate.

RULE TEXT:

(1) The Commission may grant a temporary letter of authority to operate to any applicant for an annual license issued under ORS, chapter 471 for a period not to exceed 180 days. The Commission may not extend the period of a temporary letter of authority to operate beyond 180 days and may not grant more than one temporary letter of authority to operate for the same application.

(2) To be eligible to obtain a temporary letter of authority to operate, an applicant must meet the requirements established by the Commission and pay the license fee.

(3) An applicant is eligible to exercise all of the privileges of the license under a valid temporary letter of authority to operate.

(4) The Commission may:

(a) Refuse to issue a temporary letter of authority to operate if the Commission reasonably believes that any of the grounds for refusing or restricting a license exist under ORS chapter 471 or any rules adopted thereunder;

(b) Revoke a temporary letter of authority to operate if:

(A) The Commission inactivates an application under OAR 845-005-0312;

(B) An applicant withdraws an application under OAR 845-005-0312; or

(C) The Commission reasonably believes that any of the grounds for refusing, restricting, canceling, or suspending a license exist under ORS chapter 471 or any rules adopted thereunder.

(c) Issue a temporary letter of authority to operate with restrictions.

(5) A temporary letter of authority does not constitute a license for the purposes of ORS chapter 183.

(6) The refusal to issue, the revocation, or the issuance with restrictions of a temporary letter of authority to operate is not a contested case under ORS chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: 471.297

AMEND: 845-006-0301

RULE TITLE: "Applicant" and "Licensee" Defined

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Defines "applicant" and "licensee" for the purposes of OAR Chapter 845, Divisions 5 and 6.

RULE TEXT:

(1) A license issued by the Commission shall include as licensees under a single license all individuals or entities who own or have an ownership interest in the business as defined in OAR 845-005-0311. If any such licensee is an entity, the following persons shall also be included as licensees under the license:

(a) Each principal officer as defined in OAR 845-006-0475;

(b) Each director;

(c) Each person or entity who owns or controls 20% or more of the entity's stock or who holds 20% or more of the total membership interest in the entity or whose investment interest is 20% or more of the total investment interests in the entity;

(d) Each manager of a limited liability company and each general partner of a limited partnership.

(2) As used in ORS 471.313, "applicant" includes all of the entities and individuals (as applicable) listed in subsection (1) of this rule. As used in 471.315, "licensee" includes all of the entities and individuals (as applicable) listed in subsection (1) of this rule.

(3) In any proceeding brought under the authority of ORS 471.313 or subject to the penalty provisions of 471.315, each licensee as defined in subsection (1) shall be individually responsible for any violation or other resolution of the proceeding and shall be jointly and severally liable for any sanction.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313, 471.315

REPEAL: 845-006-0309

RULE TITLE: Requirements for Outdoor Areas Not Abutting a Licensed Building

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Established requirements for outdoor areas that do not abut a licensed building.

RULE TEXT:

(1) This rule applies to an outdoor area that does not abut applicant's or licensee's licensed building and establishes the requirements for operating in 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) One patron shall not possess more than two open containers of alcohol at the same time in the outdoor area, and the amount of alcohol in each container shall not exceed 16 ounces of malt beverages, 6 ounces of wine, 16 ounces of cider or 2 ounces of distilled spirits except under the following circumstances:

- (a) Two or more patrons may possess one open standard 750 ml bottle of wine in the outdoor area; or
- (b) Three or more patrons may possess one standard 64 oz. pitcher of malt beverages in the outdoor area.
- (c) Violation of this section is a Category V violation.

(3) Only a licensee or permittee may carry open containers of alcohol through an unlicensed area to reach a licensed outdoor area not abutting the licensed building or abutting outdoor area. Violation of this section is a Category V violation.

(4) Amplified entertainment is not allowed in the outdoor area from 10:00 p.m. to 7:00 a.m. on the succeeding calendar day. Violation of this section is a Category III violation.

(5) The sale, service and consumption of alcoholic beverages in the outdoor area is not allowed from 12:00 a.m. to 7:00 a.m. on the same calendar day. Violation of this section is a Category III violation.

(6) The licensee must maintain and adequately control the defined boundaries of the outdoor area. Violation of this section is a Category V violation.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.040, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.315

AMEND: 845-006-0335

RULE TITLE: Age Verification, Minors on Licensed Premises

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes age verification requirements and the circumstances under which minors are allowed on a premises or portion of a premises that is prohibited to minors.

RULE TEXT:

(1) Age Verification:

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is "any reasonable doubt" that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages, or is in an area prohibited to minors, if there is reasonable doubt that the person is at least 21 years old. "Reasonable doubt" exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires.

(d) Only the following forms of unexpired, unaltered, and legitimate identification are acceptable alone as proof of age:

(A) A driver license issued by a U.S. state, the District of Columbia, or a province or territory of Canada;

(B) An identification card or driver license that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a U.S. state, the District of Columbia, or a territory of the U.S., or a province or territory of Canada;

(C) An identification card that has a picture of the person, the name of the person, the person's date of birth, and a physical description of the person and is issued by a federally recognized Indian tribe;

(D) A passport or passport card

(E) A U.S. military identification card; or

(F) An identification card that is proof of the person's participation in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program operated by United States Customs and Border Protection, the NEXUS program jointly operated by that agency and the Canada Border Services Agency, or a successor to either of those programs that is recognized by the Commission.

(2) Sanctions for Failure to Verify Age:

(a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:

(A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category (IIb) violation); or

(B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).

(b) If the Commission sanctions a licensee or permittee for one or more of the following violations under this rule: Failure to verify the age of a minor; Allowing a minor to drink; or Allowing a minor in an area prohibited to minors, the Commission will not sanction the licensee or permittee separately under ORS 471.130 or 471.410(2) for the same conduct. The Commission may charge a licensee or permittee for one or more violations under this rule and also charge violation of one or more of the statutes in the alternative.

(c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category (IIb) violation.

(3) Minors on Premises: General Prohibitions.

(a) No licensee, permittee, or licensee's employee will permit a minor:

(A) To drink any alcoholic beverage on licensed premises; or

(B) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, OAR 845-006-0340 and this rule.

(b) The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.

(4) Minor Employee and Minor Service Permittee:

(a) A Number 1 minor posting. Minor employees and minor service permittees are prohibited from the entire licensed premises at all times.

(b) A Number 2 minor posting. Minor employees and minor service permittees may be in this area of the premises only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.

(c) A Number 3A, 4, 6, and 7 minor posting during the times when minors are prohibited. Minor employees and minor service permittees may be in areas of the premises during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct in the area, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.

(d) A Number 3A, 4, 6, and 7 minor posting in the areas and during the times when minors are permitted. Minor employees and minor service permittees are permitted in the areas and during the times when minors are allowed. The primary duty of minor service permittees must be food service.

(e) A Number 3 minor posting. Minor employees and minor service permittees are allowed at all times in the area. The primary duty of minor service permittees must be food service.

(f) A Number 5 minor posting. Minor employees and minor service permittees are allowed at all times in the area.

(g) If a premises has one or more areas where minors are prohibited and one or more areas where minors are allowed, minor employees and minor service permittees may be in areas of the premises prohibited to them during the times prohibited to them only if they are performing work duties or going to or returning from a rest room. The minor employee or minor service permittee may not remain in the prohibited area longer than is necessary to perform the work duties or go to or return from a rest room and while in the area may not check identification, control conduct on the premises, or mix, sell, or serve alcoholic beverages or directly supervise any person who does mix, sell, or serve alcoholic beverages.

(5) Minor Vendor or Contractor. A minor, other than a licensee's employee, who has a legitimate business purpose, may be in the area of the licensed premises normally prohibited to minors. (For example, a minor who is a plumber may repair the plumbing in a prohibited area).

(6) Minor Entertainers:

(a) A minor entertainer may perform on a licensed premises, including in areas that are prohibited to minors, provided the requirements in this rule are followed. "Performing" means when a minor entertainer is entertaining. Examples include dancing, playing a musical instrument, and singing. Performing does not include when a minor entertainer is not entertaining; such as, but not limited to, soliciting dances, selling merchandise, and mingling with patrons or employees.

(b) Licensees allowing minor entertainers to perform on the licensed premises where minors would normally be prohibited must verify the minor's identification and age, maintain proof of the minor entertainer's identification and age on the premises, and make this information available for Commission inspection upon request. Licensees may accept only the forms of identification that are set forth in Section 1(d) of this rule.

(c) If the minor entertainer stays on the premises when not performing, the minor entertainer must stay in an area where minors are permitted under OAR 845-006-0340 or in an approved designated area set forth in subsection (6)(d). If a minor entertainer is not performing and is not in an area permitted to minors or in a Commission-approved designated area on the licensed premises, then the minor entertainer is prohibited from being on the licensed premises.

(d) In order for licensees to allow minor entertainers in areas of the licensed premises that are prohibited to minors, the licensee must first obtain approval from the Commission.

(A) To obtain approval, licensee must submit a plan to the Commission, in a form and manner prescribed by the Commission, showing all areas where minors will perform, and all areas designated for minors when not performing.

(B) When minor entertainers are on the premises as allowed under this subsection, but are not performing and are in a Commission-approved designated area, alcoholic beverages are prohibited in the Commission-approved designated area.

(C) The Commission may refuse to provide approval for minor entertainers to perform at a licensed premises in areas prohibited to minors, and may revoke such approval, if the licensee fails to follow the requirements of this rule or the Commission has a reasonable belief that conditions exist which do or could cause or contribute to a serious danger to the health and safety of minors. Examples of a serious danger to the health and safety of minors include, but are not limited to, when the Commission reasonably believes that the following activities are happening in the premises or in the near vicinity of the premises: sex or labor trafficking, unlawful drug activity, violence or the threat of violence, minors obtaining access to alcoholic beverages, and minors unlawfully in an area prohibited to minors. The Commission's refusal or revocation of approval under this rule is not subject to the requirements of ORS Chapter 183.

(e) Before allowing a minor who is under 18 years old to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, the licensee must first verify that the minor has the written permission of the appropriate juvenile court judge as required by ORS 167.840(2). Licensees must maintain this verification on the premises and make it available for Commission inspection upon request.

(f) Before allowing a minor who is under 18 years old to perform or entertain on the licensed premises in a capacity other than described in (6)(e) of this rule, the licensee must first receive prior written permission from the Commission's Administrator or the Administrator's designee for each minor. The licensee must apply to the Commission on a form and manner prescribed by the Commission. The Administrator or designee shall grant such permission only if:

(A) A parent or legal guardian of the minor has consented to the child's participation in such activity; and

(B) The Administrator or designee has found that participation in such activity will not be inconsistent with the health, safety and morals of the minor.

(g) Minors under 14 years old must also get a work permit if one is required by the Oregon Bureau of Labor and Industries.

(7) Minor Patron. If the licensee permits it, a minor may be in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old. "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. The minor must not buy, possess or drink alcoholic beverages.

(8) Sanctions: A violation of subsection (3)(a)(A) of this rule is a Category III violation. A violation of subsection (3)(a)(B) through section (7) of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.430, 471.482, 471.730

STATUTES/OTHER IMPLEMENTED: 471.430, ORS 471.130, 471.410, 471.480, 471.482

AMEND: 845-006-0340

RULE TITLE: Minor Postings

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes when minors are allowed on a premises that allows on-premises consumption of alcoholic beverages.

RULE TEXT:

(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) (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 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". 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". 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" (. 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 3 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)". 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". 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 in Tasting Room." 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". 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.

(a) For a temporary relaxation the licensee must submit a written and dated request, including a 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.

(b) 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.

(c) 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;

(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; or

(C) The Commission is not convinced that the licensee's plan is adequate to prevent drinking alcohol from predominating or minors from accessing alcohol.

(d) The Commission may temporarily allow minors into a normally prohibited area under these circumstances:

(A) The licensee needs additional space for overflow dining and eating predominates during all times when minors are allowed, even if minors are not present;

(B) The activity is held in a room or area where drinking alcohol does not predominate during all times when minors are allowed; or

(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.

(e) 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) Changes to Minor Postings:

(a) The Commission may change a minor posting, including a temporary relaxation or tightening, at any time if:

(A) The 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 licensee is not following the control plan or that the control plan 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 control plan on which a posting is based, including a temporary relaxation or tightening, 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 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) Control Plan:
- (a) The 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.
 - (b) When the Commission approves a control plan that is the basis to assign a minor posting or temporarily relax or tighten 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, room, or area 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 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 an annual license issued by the Commission. Examples of a temporary license or authority include: a Temporary Sales License issued under OAR 845-005-0440; a Special Events Winery and Special Events Grower license issued under OAR 845-005-0415; a Special Events Distillery license issued under OAR 845-005-0413; a Special Events Brewery-Public House license issued under OAR 845-005-0414; a Special Events Brewery license issued under OAR 845-005-0412, 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 to:
 - (A) Nonprofit or for-profit private clubs licensed as per ORS 471.175; and
 - (B) At events approved under OAR 845-005-0405.
 - (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.

STATUTORY/OTHER AUTHORITY: ORS 471.030, ORS 471.430(3), 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.430(3)

ADOPT: 845-006-0341

RULE TITLE: Notification of Conviction

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Sets requirements for an applicant or licensee to notify the Commission of certain convictions.

RULE TEXT:

(1) An applicant or licensee must notify the Commission in a manner prescribed by the Commission within five calendar days of the date of a conviction for any misdemeanor or felony of any individual listed in an application as an applicant or subsequently identified as an applicant or licensee.

(2) Failure to notify the Commission as required by this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.430(3), 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313, 471.315

AMEND: 845-006-0345

RULE TITLE: Prohibited Conduct

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes licensee and permittee conduct that is prohibited.

RULE TEXT:

The Commission holds licensees accountable for the acts of their agents and employees. (OAR 845-006-0362). No employee or agent of a licensee may violate any provision of this rule. A violation of any section of this rule by an employee or agent of a licensee is considered a violation by the licensee.

(1) Drinking on Duty: No licensee, permittee, or agent of a licensee will drink alcoholic beverages or be under the influence of intoxicants while on duty.

(a) "On duty" means from the beginning of a work shift that involves the mixing, sale or service of alcoholic beverages, checking identification or controlling conduct on the premises, to the end of the shift including any breaks.

(b) "On duty" also means, for those working outside a scheduled work shift, having the authority to put himself or herself on duty and performing acts on behalf of the licensee which involve the mixing, sale or service of alcoholic beverages, checking identification or controlling conduct on the premises. Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on duty" under this subsection.

(c) "A work shift that involves the sale and service of alcoholic beverages" includes supervising those who mix, sell or serve, check identification or control the premises.

(d) Being under the influence of intoxicants on duty is a Category II violation.

(e) Drinking on duty is a Category III violation.

(2) Despite subsection (1) of this rule, a person may self-serve and may taste malt beverages, wine, or cider while on duty or as an agent of a licensee only under the following conditions:

(a) The person is not a minor.

(b) The person is not visibly intoxicated.

(c) The time the alcoholic beverage is consumed is between 7:00 a.m. and 2:30 a.m. on the succeeding calendar day.

(d) The alcoholic beverage consumed is only malt beverages, wine, or cider.

(e) The amount of alcoholic beverage consumed per serving does not exceed one ounce.

(f) The person does not consume more than a total of six ounces of alcoholic beverages pursuant to this section between 7:00 a.m. and 2:30 a.m. on the succeeding calendar day.

(g) The purpose of the consumption is for educational purposes or to test the quality of the alcoholic beverage to ensure the product is not flawed or deteriorated.

(3) No licensee or permittee will fail to call the police when a Commission regulatory employee directs the licensee or permittee to call. Violation of this section is a Category II violation.

(4) Evidence:

(a) No licensee or permittee will:

(A) Destroy, damage, alter, remove, or conceal potential evidence, or attempt to do so;

(B) Refuse to give a Commission regulatory employee or police officer this evidence when the employee or officer lawfully requests it; or

(C) Ask or encourage another person to do subsections (a) or (b) of this section.

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

(5) Access to Premises:

(a) Both during regular business hours and when a premises is closed, no licensee or permittee will refuse to admit or fail to immediately admit to the licensed premises a Commission regulatory employee or police officer who identifies him/herself and who enters or wants to enter to conduct a reasonable search to ensure compliance with alcoholic beverage law. Examination of premises that are or appear closed occurs only when there is reason to believe an alcoholic beverage law violation is occurring.

(b) Once the regulatory employee or police officer is on the licensed premises, no licensee or permittee will ask the regulatory employee or officer to leave until the regulatory employee or officer has had an opportunity to conduct a reasonable search to ensure compliance with the alcoholic beverage laws.

(c) Violation of this section is a Category II violation.

(6) Open Containers: No licensee or permittee will permit a patron to take an open container of alcoholic beverages from the licensed premises or through an unlicensed area, except as ORS 471.175, 471.178, 471.186, 471.190, 471.200, 471.220, 471.223 and 471.227 allow. Except for tastings as allowed in OAR 845-006-0450, no Off-Premises Sales licensee will permit an open container of alcoholic beverages on the licensed premises unless the licensee also holds another license at the premises that allows on-premises consumption. Violation of this section is a Category V violation.

(7) Liquor on Premises: No licensee or permittee will have or permit any alcoholic liquor on the licensed premises which the license does not allow the licensee to sell or serve. Notwithstanding this requirement, a limited on-premises or brewery-public house sales licensee may have distilled spirits on the premises if the distilled spirits are used only for cooking, are kept in a container only in the food preparation area, and the container is clearly marked "for cooking only." Violation of this section is a Category V violation.

(8) Drive-up Window: No licensee or permittee will sell or deliver any alcoholic beverages through a drive-up window. Violation of this section is a Category III violation.

(9) Liquor as a Prize: Except as allowed in ORS 471.408, no licensee or permittee will give or permit any alcoholic beverage as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises. Violation of this section is a Category V violation.

(10) "Good Faith Effort": ORS 471.315(1)(a)(H), and 471.412(1) prohibit a licensee or permittee from allowing a visibly intoxicated person to drink alcoholic beverages. A licensee or permittee who makes a good faith effort to remove the alcoholic beverage does not violate these statutes.

(a) As used in ORS 471.412(2) and this rule, "good faith effort" means:

(A) Placing a hand on the drink and trying to remove it; or

(B) Making a verbal request for the drink, if the server has reason to believe that touching the patron's drink could cause a disturbance;

(b) The Commission will issue letters of reprimand for the first three violations of this section within a two-year period. A fourth violation within a two-year period is a Category III violation assessed at the fourth level (cancellation).

(11) Promotions.

(a) The following practices are prohibited:

(A) The sale, offer or service to any person of an unlimited number of alcoholic beverage(s) during any set period of time for a fixed price;

(B) The sale, offer or service of alcoholic beverages by the drink for a price per drink that is less than the licensee's cost for the alcohol to any person paying a fixed "buy in" price, entry fee, cover or door charge;

(C) Price reductions on alcoholic beverages by the drink from 12:00 midnight until 2:30 a.m. A price reduction is a lower price as compared to the usual, customary, or established non-discounted price the licensee charges for a drink of that type on the licensed premises;

(D) The sale, offer or service of distilled spirits by the bottle for consumption on the premises, except as allowed in OAR 845-006-0433 (Minibars in Hotel Guest Rooms) and 845-006-0434 (Minibars in Arena Suites). This subsection does not prohibit a Full On-Premises Public Location Sales Licensee (F-PL) or Full On-Premises Catering Sales Licensee (F-Cat) from charging clients by the bottle for distilled spirits that are served by the drink at hotel suites, banquets, receptions or catered events where the reasonably projected attendance is at least 20 patrons;

(E) Operating, encouraging or permitting games of chance or skill, contests, exhibitions, or competitions of any kind on the licensed premises that involve drinking alcoholic beverages, (e.g., beer pong, "21 for 21");

(F) Dispensing, pouring or otherwise serving any alcoholic beverage directly into a person's mouth, including through any device such as a "bong"; and

(G) The use of any device or serving technique that produces an alcoholic mist or vapor for consumption by inhalation. An alcohol vaporization device, for example, also called an alcohol without liquid machine, is a device, machine or process which mixes spirits, alcoholic liquors or any product containing alcoholic liquor with oxygen or any other gas to produce a vaporized product for consumption by humans by inhalation.

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

(12) Self-Service. No licensee or permittee will permit any patron to mix, dispense or serve an alcoholic beverage for or to himself or herself for on-premises or off-premises consumption. Violation of this section is a Category III violation.

(13) Marijuana Use. No licensee or permittee will permit the use, consumption, ingestion, or inhalation of marijuana items as defined in ORS 475C.009 and OAR 845-025-1015 on a premises licensed to sell or serve alcoholic beverages. Violation of this section is a Category III violation.

(14) No licensee or permittee will manufacture, store, transport, sell, or offer to sell an alcoholic beverage that is manufactured with any substance derived from cannabis, or cannabinoids derived from any source, unless the substance has been approved for use in alcoholic beverages by the Alcohol and Tobacco Tax and Trade Bureau (TTB) and the U.S. Food and Drug Administration (FDA). Violation of this section is a Category III violation.

(15) No licensee or permittee will engage in or permit any activity relating to the manufacture, possession, sale, purchase, transportation, importation or delivery of alcoholic liquor that violates an order issued by the Governor. A licensee's or permittee's failure to follow this rule creates an immediate and serious danger to the health and safety of all patrons and employees on the premises. Violation of this section is a Category II violation.

(16) No licensee or permittee will engage in or permit any activity relating to the manufacture, possession, sale, purchase, transportation, importation or delivery of alcoholic liquor that violates a public health law, as defined in ORS 431A.005, that is created pursuant to an order issued by the Governor. This rule only applies to activity that occurs during a state of emergency declared by the Governor. A licensee's or permittee's failure to follow this rule creates an immediate and serious danger to the health and safety of all patrons and employees on the premises. Violation of this section is a Category II violation.

(17) No licensee or permittee will mix or combine an adult use cannabinoid as defined in OAR 845-026-0100, an industrial hemp commodity as defined in OAR 845-026-0300, or a product that contains cannabinoids and is intended for human consumption with an alcoholic beverage. Violation of this section is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.175

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.040, ORS 471.178, 471.186, 471.200, 471.223, 471.227, 471.315(1)(a)(H), 471.351(1), 471.405(1), 471.408, 471.412, 471.675, 471.730, 471.446

AMEND: 845-006-0350

RULE TITLE: Service Permittee Required Reporting of Trafficking and Unlawful Employment of Minors

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the conditions under which a service permittee at a premises with a full on-premises sales or limited on-premises sales must report sex trafficking that is occurring at the premises to law enforcement and the Commission.

RULE TEXT:

Permittee Required Reporting of Trafficking and Unlawful Employment of Minors

(1) Definitions.

(a) "Commercial sex act" means any sex act on account of which anything of value is given to or received by any individual.

(b) "Sex trafficking" means the recruitment, enticement, intimidation, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. "Sex Trafficking" also includes such actions by means of force or fraud.

(2) An employee of a full on-premises sales or limited on-premises sales licensee who holds a service permit issued under ORS 471.360 to 471.385 and who has a reasonable belief that sex trafficking is occurring at the premises must report that belief in a timely manner to:

(a) A law enforcement agency; and

(b) The Oregon Liquor and Cannabis Commission.

(3) An employee of a full on-premises sales or limited on-premises sales licensee who holds a service permit issued under ORS 471.360 to 471.385 and who has a reasonable belief that an individual who is employed or contracted as a performer at the premises is under the age of 18 and who conducts any public dance at the premises but does not have the written permission of a juvenile court judge as required in ORS 167.840 must report that belief in a timely manner to the Oregon Liquor and Cannabis Commission.

STATUTORY/OTHER AUTHORITY: ORS 471.385, 471.217

STATUTES/OTHER IMPLEMENTED: ORS 471.385, 471.217

AMEND: 845-006-0399

RULE TITLE: Sale of Mixed Drinks and Single Servings of Wine by Full On-Premises Sales Licensees for Off-Premises Consumption and Delivery

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the conditions under which a full on-premises sales licensee may sell and deliver mixed drinks and single servings of wine.

RULE TEXT:

(1) Definitions. For the purposes of this rule:

(a) "Manufacturer-sealed container" means a container holding an alcoholic beverage that was sealed upon removal from federal bond.

(b) "Mixed drink" means a beverage that is combined on a licensed premises and sold in a sealed container for consumption off of the licensed premises and is:

(A) A drink where the principal alcoholic liquor is distilled liquor and one or more mixers, and contains no more than three ounces of distilled liquor; or

(B) A drink where the principal alcoholic liquor is wine combined with one or more mixers or distilled liquor that contains no more than six ounces of liquid.

(c) "Mixer" means malt beverages, wine, cider, or nonalcoholic ingredients.

(d) "Resident of Oregon" means a person who is in Oregon, even if temporarily.

(e) "Sealed container" means a container with a secure cap or lid that completely covers the opening for the container and a seal designed to make it evident when the seal has been removed or broken. The seal is affixed to the container by the licensee after the container is filled pursuant to a consumer order for the mixed drink.

(f) "Serving of wine" means a container holding six ounces or less of wine with no mixer and no distilled liquor.

(g) "Third-party platform" means a website, mobile application or other electronic service that facilitates the order of food and beverages for sale to a consumer by a licensee and that provides one or more the following services:

(A) Delivering, or arranging for the delivery of, the order to the consumer; or

(B) Arranging for the pickup of the order by the consumer from the licensee.

(2) A Full On-Premises Sales licensee may sell or provide no more than a total of either two containers of a mixed drink, two servings of wine, or one mixed drink and one serving of wine per meal as defined in OAR 845-006-0459.

(3) A Full On-Premises Sales licensee that sells mixed drinks or servings of wine to consumers must prominently post a notice provided by the Commission relating to Oregon's open container laws. The notice must be prominently displayed on the premises and present in whatever manner is necessary to ensure that the consumer purchasing, or a delivery person transporting, such beverages is given notice of this warning. Violation of this section is a Category IV violation.

(4) Mixed drinks and servings of wine may be delivered to a resident of Oregon by a Full On-Premises Sales licensee only as follows:

(a) To a resident of Oregon who is at least 21 years of age and only if the mixed drink or serving of wine is for personal use and not for the purpose of resale;

(b) To a resident of Oregon who is not visibly intoxicated at the time of receiving the mixed drink or serving of wine;

(c) The mixed drink or serving of wine is in a container or packaging that is conspicuously labeled with the words "Contains alcohol: deliver only to a person age 21 years or older." This message may be directly on the container, on the packaging, or accompanying the container. Examples that meet this labeling requirement include but are not limited to a card, adhesive label or notice, or other medium approved by the Commission;

(d) Pursuant to an order for a mixed drink or serving of wine that is received by the licensee and paid for by the resident prior to removal from the licensed premises for delivery to the resident;

(e) The mixed drink or serving of wine is delivered between the hours of 7:00 am and 10:00 pm;

(f) To a home or business where the home or business has a permanent street address; or to a location that is within 100 feet of the boundary of the licensed premises.

(5) Licensees may use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 to deliver mixed drinks and servings of wine to residents of Oregon. When a licensee uses a for-hire carrier to deliver a mixed drink or serving of wine to a resident of Oregon, the licensee may be held responsible for the for-hire carrier's failure to follow the requirements of OAR 845-005-0424. If the licensee does not use a for-hire carrier, in addition to complying with all other requirements of this rule applicable to the licensee, the person making the delivery of the mixed drink or serving of wine must:

- (a) Be age 18 or over;
- (b) Verify that the person receiving the mixed drink or serving of wine is at least 21 years of age;
- (c) Determine that the person receiving the mixed drink or serving of wine is not visibly intoxicated; and
- (d) Collect information that must be retained by the licensee for a minimum of 120 days from the date of delivery of the mixed drink or serving of wine to the resident. The information retained must include:
 - (A) The date and time the mixed drink or serving of wine was delivered to the resident;
 - (B) The name or information that can be used to determine the name of the person delivering the alcohol to the resident; and
 - (C) The name and delivery address of the person receiving the alcohol.
- (6) A Full On-Premises Sales licensee may receive orders and payment for mixed drinks and servings of wine through a third-party platform. The licensee may use a third-party platform to deliver mixed drinks or servings of wine sold to a resident of Oregon only if the third-party platform is approved as a for-hire carrier as defined in OAR 845-005-0424.
- (7) A Full On-Premises Sales licensee may not sell manufacturer-sealed containers of distilled liquor of any size. Violation of this subsection is a Category I violation.
- (8) This rule does not apply to sales of manufacturer-sealed containers or securely covered containers of malt beverages, wine, or cider for off-premises consumption.
- (9) Unless otherwise specified, violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175, 471.176

AMEND: 845-006-0425

RULE TITLE: Hours of Sale

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Sets the legal hours for the sale, dispensation, service, consumption, and removal of alcoholic beverages from a licensed premises.

RULE TEXT:

(1) Except as provided by sections (2) through (4) of this rule, and OAR 845-015-0140, alcoholic liquor may be sold, dispensed, served, consumed on, or removed from licensed premises only between the hours of 7:00 a.m. and 2:30 a.m.

(2) Except as provided by sections (4) and (5) of this rule, alcoholic liquor may be sold and removed from a premises with an off-premises sales license issued under ORS 471.186 only between the hours of 6:00 a.m. and 2:30 a.m.

(3) Except as provided by sections (4) and (5) of this rule, alcoholic liquor may be sold, dispensed, served, consumed on, or removed from a licensed premises located within any Oregon public use airport designated as a Category I – Commercial Service Airport by the Oregon Department of Aviation only between the hours of 4:00 a.m. and 2:30 a.m. However, from 4:00 a.m. to 7:00 a.m. alcoholic liquor may be sold, dispensed, or served only to a ticketed airline passenger with a valid same-day boarding pass.

(4) Licensees whose license privileges permit the sale and distribution of malt beverages, cider, and wines for resale may make deliveries of that alcohol to licensees at any time.

(5) Licensees may advertise, solicit and receive orders, and accept payment for alcoholic beverages at any time provided the customer receipt of the alcoholic beverage occurs only during the times allowed by this rule.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.030

REPEAL: 845-006-0430

RULE TITLE: Alcohol Management in Public Venues

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Sets standards for managing large public events.

RULE TEXT:

(1) Purpose. The Commission is charged with regulating the sale and service of alcoholic beverages in a way which protects the safety and welfare of the citizens, and helps ensure that alcohol is used legally. The purpose of this rule is to set minimum standards to help licensees manage large public events, ensuring that minors and visibly intoxicated persons do not get or consume alcohol. The Commission may place additional requirements on individual events to help ensure legal, well-managed events.

(2) Definitions.

(a) "Attendance" means reasonably projected attendance.

(b) "Confined area" means an area within the event to which alcohol sales and consumption are restricted and where minors are prohibited. Alcohol Monitors are required if 2000 or more people are allowed in the confined area at any one time.

(c) "Alcohol Monitor" means a licensee's employee or agent who monitors the sale and consumption of alcoholic beverages, supplementing alcohol servers and security staff.

(d) "Walk around" means an event where people are allowed to walk around the entire event or some defined part of the event while consuming alcohol, and minors are allowed. Alcohol Monitors are required if there will be a daily attendance at the event of 2000 or more.

(3) This rule applies to:

(a) All annually licensed premises that do not have a Commission-approved operating plan and have any event with a daily attendance of 2000 or more. Annual licensees with a Commission-approved operating plan are exempt from this rule no matter what size events are held at the premises;

(b) All off premises events held by a regular or temporary licensee with a daily attendance of 2000 or more. If such licensee holds an event at another regular licensed premises that has a Commission-approved operating plan, the event holder must comply with the operating plan that is approved for the subject premises;

(c) To determine if this rule applies to an event, the licensee counts the total daily attendance (It does not matter how many people may consume alcohol or how many people are allowed in a confined area; what matters is the total daily attendance.) To determine if an event needs Alcohol Monitors, see Section (2), Definitions, and Section (5), Assignment of Alcohol Monitors.

(4) Responsibilities and Requirements for Alcohol Monitors:

(a) Alcohol Monitors are responsible for ensuring that unlawful sales, service and consumption of alcoholic beverages do not occur on the licensed premises. Alcohol Monitors duties include observing people, monitoring their alcohol consumption, looking for minors who are consuming alcoholic beverages, and preventing visibly intoxicated persons and minors from consuming alcoholic beverages;

(b) Alcohol Monitors must wear clothing or other designation, such as a button, which readily identifies them to the public as Alcohol Monitors;

(c) Alcohol Monitors must have completed Alcohol Server Education and hold a valid service permit. For annual licensees, this requirement applies to volunteer Alcohol Monitors and to compensated Alcohol Monitors;

(d) Despite Section (4)(c), Alcohol Monitors do not need to hold a service permit if they are uncompensated volunteers for a Temporary Sales licensee and are directly supervised on premises by an individual who has completed Server Education successfully within the last five years.

(5) Assignment of Alcohol Monitors. When determining the required number of Alcohol Monitors, licensees must use the total daily attendance if all or part of the event is a walk around event. See Section (2)(d) for a definition of walk around event. However, if alcohol sales and consumption will be limited to a confined area, the licensee uses the number

of people allowed in the confined area at any one time to determine how many Alcohol Monitors are required. See Section (2)(b) for a definition of confined area. Alcohol Monitors must be on duty at all times of alcohol service as follows:

- (a) For 2000 to 7500 people, at least three Alcohol Monitors;
- (b) For each additional one to 2,500 people, at least one more Alcohol Monitor. For example, 7,501 to 10,000 people require at least four Alcohol Monitors; 10,001 to 12,500 people require at least five Alcohol Monitors; and
- (c) One additional Alcohol Monitor for each point of sale that is not readily visible to the minimum number of Alcohol Monitors required in Section (5)(a) and (b). Point of sale means each stand, booth or other concession area where alcoholic beverages are sold and served.

(6) Approved Containers for On-Premises Consumption.

(a) Container sizes. Alcoholic beverages for consumption on the premises must be served as follows:

(A) Malt beverages:

- (i) In a container no larger than 16 ounces;
- (ii) For tastings, no more than 3 ounces of product.

(B) Wine:

- (i) By the glass, a standard pour of no more than 6 ounces of product in a container no larger than 24 ounces;
- (ii) For tastings, no more than 1 1/2 ounces of product in a container no larger than 24 ounces;
- (iii) A bottle of wine no larger than 750 ml sold for more than one person and for on-premises consumption only, with containers no larger than 24 ounces.

(C) Distilled Spirits:

- (i) Up to 1 ounce of distilled spirits without mixer in a container no larger than 4 ounces;
- (ii) Up to 1 ounce of distilled spirits with mixer served in a container no larger than 12 ounces.

(D) Cider:

- (i) In a container no larger than 16 ounces;
- (ii) For tastings, not more than 3 ounces of product;
- (iii) A bottle of cider no larger than 750 ml sold for more than one person and for on-premises consumption only.

(b) Container color or type. Containers used to serve alcoholic beverages must be of a visibly and distinctively different color or type when compared to containers used to serve nonalcoholic beverages.

(7) Limits on Alcohol Sales.

(a) Each purchaser of alcoholic beverages may buy no more than two drinks at any one time, or one bottle of wine or cider for consumption on the premises that is no larger than 750 ml at any one time.

(b) Alcoholic beverages must be sold and served consistent with Section (6).

(c) If it is reasonably projected that 30 percent or more of the people at the event will be between 15 and 20 years of age, the licensee must limit the sale of alcoholic beverages to a confined area where minors are prohibited unless the licensee gets a variance under Section (9).

(d) Walk around events must have sufficient lighting to ensure that Alcohol Monitors, alcohol servers, security staff, OLCC staff, and law enforcement staff can observe and monitor for over consumption, minors consuming or in possession, and other liquor law violations.

(8) Transportation. The Commission encourages messages before and at events reminding people of the risks of drinking and driving, and encourages alternatives such as designated drivers and, when possible, offering alternate transportation.

(9) Request for Variance. The Commission may grant a variance to part or all of this rule if the request is consistent with the intent of the rule. Any licensee or applicant who requests a variance from any of the criterion stated above must submit the request along with a detailed security plan at least 30 days prior to the event. The Commission will discuss requests for variances with the recommending authority when appropriate. When the Commission grants a variance, the Commission may add other requirements to ensure that the event operates in a way consistent with the intent of the rule. For example, if the Commission were to allow the sale of bottles of wine larger than 750 ml, the Commission

might require that the licensee increase the number of Alcohol Monitors to help ensure that the larger bottles did not result in over consumption or in alcohol getting to minors. Other examples of when the Commission will consider granting a variance include events where minors are not permitted to attend and family events (events where minors are accompanied by adults).

(10) Sanction for Violation.

(a) A licensee who violates this rule with respect to the proper training, assignment and use of Alcohol Monitors or by failing to comply with Section (6) related to containers commits a Category IV violation under the Commissions sanction schedule (OAR 845-006-0500).

(b) If a licensee holds a walk around event and violations related to the sale or service of alcoholic beverages to minors or visibly intoxicated persons occur, or a violation of Section (7)(d) occurs, the next time this event or similar event is held alcohol must be limited to a confined area unless the licensee get a variance under Section (9).

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.040, 471.115, 471.360, 471.410, 471.412, 471.430, 471.730(1)

AMEND: 845-006-0459

RULE TITLE: Definitions as used in OAR 845-006-0459 through 845-006-0469

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Defines certain terms as related to food service requirements for full on-premises sales licensees.

RULE TEXT:

(1) "Meal" means a food item, or combination of food items, prepared or cooked on the licensed premises that the Commission determines is a main course and is a serving of food sufficient to satisfy the appetite of one individual. Food items that are appetizers, snacks, and desserts do not qualify as a meal. Examples include, but are not limited to, popcorn, peanuts, chips, a serving of food that is not sufficient to satisfy the appetite of one individual, and food items offered by the licensee as other than a meal.

(2) "Different meals" means meals that the Commission determines differ in their primary ingredients or method of preparation. For example, a turkey sandwich differs from a salami sandwich, a beef burger differs from a turkey burger, a pepperoni pizza differs from a cheese pizza, and fried chicken differs from baked chicken. Different sizes of the same item are not considered different under this rule. For example, a large cheese pizza is not different from a small cheese pizza and a large hot dog is not different from a small hot dog.

(3) "Dining seats" means seating at tables or food counters as defined in OAR 845-006-0340 located in areas of the licensed premises regularly open to the public where the Commission determines that each table top or seating area provides a minimum space that will accommodate a place setting consisting of a plate or dish, glassware, napkin and utensils for each seat.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175

AMEND: 845-006-0460

RULE TITLE: Food Service requirements for Commercial Establishments with a Full On-Premises Sales License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the food service requirements for a full on-premises commercial establishment.

RULE TEXT:

(1) Purpose: ORS 471.175 and 471.001(2) allow a commercial establishment to sell distilled liquor by the drink and also require food service. This rule sets the food service requirements for a commercial establishment, including a for-profit private club.

(2) Food Service.

(a) Licensee must make at least five different meals available at all times and in all areas where alcoholic beverage service is available.

(b) Notwithstanding this requirement, a licensee may make fewer than five different meals available if the Commission determines that the clearly dominant emphasis in the areas with alcoholic beverage service is food service. One method for showing that the clearly dominant emphasis in the area is food service is for the Commission to determine that the gross receipts from the sale of meals to patrons for consumption in the area exceed or are reasonably expected to exceed the gross receipts from alcoholic beverage sales when alcoholic beverage service is available.

(3) Dining Seats: The licensed premises must have at least 30 dining seats during a time period which must last at least two hours prior to 10:00 p.m. Seats at counters in entertainment areas and at bars as defined in OAR 845-006-0340 do not qualify as dining seating. A premises may have less than 30 dining seats during this time period if the Commission determines that the clearly dominant emphasis of the premises is food service as described in this rule at all times and in all areas where alcohol service is available when open to the public.

(4) Violation of any section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175

AMEND: 845-006-0461

RULE TITLE: Food Service Requirements for Nonprofit Private Clubs with a Full On-Premises Sales License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the food service requirements for a full on-premises, nonprofit club.

RULE TEXT:

(1) Purpose: ORS 471.175 allows nonprofit private clubs with food service to sell distilled spirits by the drink. ORS 471.175 (9) requires a nonprofit private club to meet minimum food service requirements established by Commission rule. This rule sets the food service requirements for nonprofit private clubs as described in ORS 471.175(2)(a).

(2) A nonprofit private club must comply with the food service requirements of OAR 845-006-0460(2) & (3) during all times and in all areas it is serving alcohol to the general public.

(3) Food Requirements When Serving Alcohol in Areas where only Full and Auxiliary Members, and their Guests, are Present. At all times and in all areas where only full and auxiliary members, and their guests, are present and alcohol service is available, the club must make available at least three different meals.

(4) Violation of any section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175

AMEND: 845-006-0462

RULE TITLE: Food Service Requirements for Off-Premises Events with a Full or Limited On-Premises Sales License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the food service requirements for off-premises events with a full or limited on-premises sales license

RULE TEXT:

(1) Purpose: ORS 471.184 allows Full and Limited On-Premises Sales licensees to have off-premises events under the license privilege. This rule sets the food service requirements for off-premises events with a Full or Limited On-Premises Sales license.

(2) If the off-premises event would qualify for general pre-approval under OAR 845-005-0405, the licensee must provide at all times and in all areas where alcohol service is available at least two different meals, some of which the licensee prepares and cooks in sufficient quantity to provide at least one serving for each person at the event. A contractor may not provide this food service. A licensee may provide one meal in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in 845-006-0460.

(3) If the off-premises event is not of a type that would qualify for general pre-approval granted by the Commission but has been approved under the standards of OAR 845-005-0410 and:

(a) Distilled spirits are provided at the event, the licensee or a contract food service provider must provide at least five different meals on the off-premises event's licensed premises at all times and in all areas where alcohol service is available; or

(b) Distilled spirits are not provided at the event, the licensee or a contract food service provider must provide at least two different meals on the off-premises event's licensed premises at all times and in all areas where alcohol service is available.

(4) If the licensee does not directly provide the food service required under subsection (3) this rule, the food service must be provided by a contractor or contractors. The contract may be with the licensee or with the organizer of the event. The licensee may sell or serve alcohol only when food service that meets the requirements of this rule is provided to patrons at all times and in all areas where alcohol service is available. The Commission may waive the OAR 845-005-0311 requirement that a contract food service provider be a co-licensee at the event if the contract food provider does not provide any alcohol service and does not directly or indirectly manage people who sell or serve alcohol. A licensee may have fewer than the different meals required under this rule in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in 845-006-0460.

(5) Violation of any section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175, 471.184

AMEND: 845-006-0464

RULE TITLE: Food Service Requirements for Other Public Locations with a Full On-Premises Sales License

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the food service requirements for a full on-premises, other public location.

RULE TEXT:

(1) ORS 471.175 allows the Commission to grant a Full On-Premises Sales license to public locations that are other than commercial establishments, private clubs, or public passenger carriers. This rule sets the food service requirements for other public locations.

(2) Other Public Locations are businesses open to the public where meals are offered, but where the predominant activity of the business is other than the preparation or serving of meals or the consumption of alcohol. Examples of such businesses are an auditorium; a music, dance, or performing arts facility; a banquet or special events facility; a lodging facility; a fairground; a sports stadium; an art gallery; or a convention, exhibition, or community center.

(3) Food Service: At all times and in all areas where alcohol service is available, the licensee must make available to patrons at least five different meals.

(4) Notwithstanding the requirement in subsection (3), a licensee may make fewer than five different meals available if the Commission determines that the clearly dominant emphasis in the areas with alcohol service is food service. One method for showing that the clearly dominant emphasis in the area is food service is for the Commission to determine that the gross receipts from the sale of meals to patrons for consumption in the area exceed or are reasonably expected to exceed the gross receipts from alcohol sales when alcohol service is available.

(5) Violation of any section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175

AMEND: 845-006-0465

RULE TITLE: Food Service Requirements for a Special Events Brewery license issued under 845-005-0412, Special Events Brewery-Public House license issued under 845-005-0414, Special Events Distillery license issued under 845-005-0413, Special Event Grower license issued under 845-005-0415, Special Event Winery license issued under 845-005-0415, and a Temporary Sales License issued under 845-005-0440.

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the food service requirements for temporary sales licenses and other specified special event licenses.

RULE TEXT:

(1) This rule sets the food service requirements for a Special Events Brewery license issued under 845-005-0412, Special Events Brewery-Public House license issued under 845-005-0414, Special Events Distillery license issued under 845-005-0413, Special Event Grower license issued under 845-005-0415, Special Event Winery license issued under 845-005-0415, and a Temporary Sales License issued under 845-005-0440.

(2) If distilled spirits are served by the drink at the event, the licensee or the licensee's contract food service provider must provide at all times and in all areas where alcohol service is available at least three different meals.

(3) If distilled spirits are not served by the drink at the event, the licensee or a contract food service provider must provide at all times and in all areas where alcohol service is available at least two different meals.

(4) If the licensee does not directly provide the food service required under this rule, the food service must be provided by a contractor or contractors. The contract may be with the licensee or with the organizer of the event. The licensee may sell or serve alcohol only when food service that meets the requirements of this rule is provided to patrons at all times and in all areas where alcohol service is available. The Commission may waive the OAR 845-005-0311 requirement that a contract food service provider be a co-licensee at the event if the contract food provider does not provide any alcohol service and does not directly or indirectly manage people who sell or serve alcohol. A licensee may have fewer than the different meals required under this rule in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in 845-006-0460.

(5) Violation of any section of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.190

AMEND: 845-006-0475

RULE TITLE: License Changes Requiring Prior Approval

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the conditions under which a licensee must receive the Commission's prior approval.

RULE TEXT:

(1) As used in this rule:

(a) "Partnership" means an association of two or more persons who carry on a business jointly and who demonstrate an intent to be treated as partners by signing a partnership agreement;

(b) "Person" includes individuals, corporations, partnerships or other business organizations;

(c) "Principal officer" includes the president, any vice president with responsibility over the operation of a licensed business, the secretary, the treasurer, or any other officer designated by the Commission.

(2) All licensees:

(a) Except as allowed by Commission rule, no person will obtain an ownership interest, as defined in OAR 845-005-0311, in a licensed business without prior Commission approval;

(b) A person must receive Commission approval prior to being added or removed as a licensee. Each licensee will remain responsible for any violation or other resolution and shall be jointly and severally liable for any sanction until the Commission removes the person as a licensee;

(c) The Commission may deny a request to add a person as a licensee, or may restrict the license, for any of the grounds for which it may deny or restrict a license.

(3) A violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313(4)(h)

AMEND: 845-006-0480

RULE TITLE: Changes in Premises or Operation: Prior Approval or Notice Required

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the conditions under which a licensee must receive the Commission's prior approval or when it must notify the Commission of a change to the premises.

RULE TEXT:

(1) A licensee with license issued under ORS Chapter 471 must obtain approval from the Commission prior to exercising any privilege of the license in an area not previously approved by the Commission as the licensed premises. A violation of this subsection is a Category III violation.

(2) A licensee licensed to sell alcoholic beverages for on-premises consumption must notify the Commission in writing of any change to the premises or the business operation that could reasonably affect the minor posting assigned to the premises or any room or area of the premises prior to the change. A violation of this subsection is a Category V violation.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313, 471.315

REPEAL: 845-006-0481

RULE TITLE: Notification When Premises Closed: Time Limit for Operation

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Requires a licensee to notify the Commission when the licensee is closed for more than 14 days.

RULE TEXT:

A licensee must give the Commission written notice when the licensed premises are closed for more than 14 days. The notice must include the reason for closure and the estimated reopening date. The Commission must receive this notice within 21 days after closure began. Failure to give this closure notice may result in fine, suspension or refusal to renew.

STATUTORY/OTHER AUTHORITY: ORS 471, including 471.030, 471.040, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.313, 471.315, 471.175

AMEND: 845-006-0482

RULE TITLE: Closure of Premises for Private Uses

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: Describes the conditions under which a licensee may close all or part of its premises for private use.

RULE TEXT:

(1) All licensees may close all or part of the licensed business for private use at any time. Licensees are responsible for following all Commission regulations even when closed for private use.

(2) Closure for private use does not excuse a Full On-premises Sales licensee from compliance with the food service rules of the Commission.

(3) Whenever any licensee closes the licensed premises or a part of it to the public for private use, at least one entry normally used by the public must remain unlocked to allow Commission inspectors unrestricted access.

(4) Examples of private uses are banquets, conferences, meetings and parties.

STATUTORY/OTHER AUTHORITY: ORS 471.030, 471.040, 471.730(1), 471.730(5)

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.730(1), 471.175, 471.178

REPEAL: 845-006-0490

RULE TITLE: Requirements for a Full On-Premises Sales License for a Nonprofit Private Club

NOTICE FILED DATE: 10/24/2022

RULE SUMMARY: 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 Nonprofit Private Club.

RULE TEXT:

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 Nonprofit 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 nonprofit 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.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.030, 471.040, 471.175, 471.730(1), (5)

STATUTES/OTHER IMPLEMENTED: ORS 471.175