

## Division 5 and 6 Rules

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

### 1. **Modernize the application and review processes for initial, renewing, and special liquor licenses.**

Modernization will bring efficiencies to the application and review processes for initial, renewing, and special liquor licenses. These efficiencies are designed to reduce the average number of processing days required from the receipt of the application to issuing the license.

This modernization concept involves the following rules:

- Add: none
- Amend: 845-005-0306, 845-005-0312, 845-005-0360, 845-005-0400, 845-005-0405, 845-005-0410, 845-005-0412, 845-005-0413, 845-005-0414, 845-005-0415, 845-005-0440
- Repeal: 845-005-0314, 845-005-0315

#### **845-005-0306**

##### **Procedures for Public Notice of License Applications**

(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~~ **inactivate** the application per OAR 845-005-~~0315~~ **0312** if the applicant fails to meet this requirement.

## 845-005-0312

### Forms Required for License Applications

(1) As a part of the application:

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

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

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

(d) All applicants will submit a statement of funding, and verification of the funding source(s). As part of investigation under OAR 845-005-0311, Commission staff may require any applicant to submit additional financial information, including, but not limited to, a financial statement and documentation of the origination of funds.

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

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

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

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

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

These circumstances may include the following:

(a) Previous licensing by the Commission of the applicant;

- ~~(b) General reputation of the applicant;~~  
~~(c) Information from other state or federal regulatory agencies that the Commission could use in lieu of the information this rule requires.~~  
~~(5) ORS 471.757 allows the Commission to deny, cancel or suspend a license if an unlicensable person has any financial interest in the business or place of business. The Commission may require a personal history or fingerprints from any person who has a financial interest in the licensed business to help determine if this person is licensable.~~  
~~(6) Nothing in this rule prevents the Commission from requiring additional information or information from other persons where there is reason to believe that this information may help the Commission determine the merits of a license application or to otherwise perform its statutory duties.~~

### **Application for License; or Request for Change to License**

#### **(1) An applicant for a license issued under ORS Chapter 471 must submit the following application materials to the Commission:**

##### **(a) Liquor License Application form that includes either:**

**(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) Written documentation that:**

**(A) At least one applicant has or will have access to the real property proposed to be licensed; and**

**(B) No other person who is not an applicant has access to the real property proposed to be licensed unless exempted by Commission rule. Examples of this documentation include, but are not limited to, a property deed, lease, rental agreement, or similar document.**

**(2) A licensee requesting approval of a change as required by Commission rules shall submit to the Commission a written and dated request and include all forms, documents, information, and fees required by the Commission.**

**(3) After an applicant has submitted the application materials required by subsection (1) of this rule or a licensee has submitted the forms, documents, information, and fees required by subsection (2) 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 request or to otherwise perform its statutory duties.**

**(b) At any time, inactivate an application or request submitted under this rule when the Commission determines:**

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

**(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.**

**(4) In addition to the materials required by subsections (1) and (2) of this rule, examples of 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 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.**

**(B) When the applicant is an entity, for all individuals within the entity who are an applicant per Commission rules when the applicant entity provides documentation to the Commission showing that the individual does not exercise control or authority, and is not entitled to exercise control or authority, over the applicant entity.**

**(C) 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 management agreement, or similar written agreement, 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.**

**(5) When the Commission inactivates an application or request under this rule:**

**(a) The inactivation is not subject to the requirements of ORS Chapter 183; and**

**(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 subsection (1) of this rule or the forms, documents, information, and fees required by subsection (2) of this rule.**

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

~~845-005-0314~~

~~Refusal to Accept an Application~~

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

~~(2) Any Commission forms, statements or requests required as part of an application shall be completed legibly to qualify for acceptance. To be legible as required by this rule, a form, statement or request must be signed and dated by the applicant and made or completed:~~

~~(a) In the English language;~~

~~(b) By typing or by printing that is clearly legible to Commission staff.~~

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

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

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

~~(a) Documentation of funding sources described on the Statement of Funding form. For instance, if funding is from a bank loan, documentation may be a copy of the loan agreement or the bank's written verification of loan commitment. Commission staff may require further documentation in the course of license investigation;~~

~~(b) Lease summary form(s) if the applicant is leasing the real property, equipment, furnishings or business at the location proposed to be licensed;~~

~~(c) Purchase agreement summary form(s) if the applicant is buying the real property, equipment, furnishings or business at the location proposed to be licensed and, if the purchase transaction has not been closed, a copy of the applicant's accepted earnest money agreement;~~

~~(d) Franchise agreement summary form if the applicant is or will be a franchisee at the location proposed to be licensed;~~

~~(e) If the applicant is not an individual, but is a registered entity as defined in OAR 845-005-0312(2) (for instance a corporation, a limited partnership, a LLC) and registered as such with the Oregon Secretary of State, a copy of such registration and a completed form showing the individuals and persons who are the owners, principals, directors, officers, trustees, investors, members or partners in the applicant registered entity.~~

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

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

~~(a) Floor or plot plan sketch showing the areas proposed to be licensed for any Full or Limited On-Premises Sales license or Brewery Public House license, including~~

~~identification of table seating that meets the dining seating requirement of OAR 845-006-0460 or 845-006-0461 if the application is for a Full On-Premises license;~~

~~(b) Floor or plot plan sketch showing the proposed on-premises alcohol service or consumption areas of any manufacturer's licensed premises;~~

~~(c) Operating data questionnaire form if the applicant will sell alcoholic beverages at retail;~~

~~(d) Food service proposal form if the application is for a license or privilege that requires food service to patrons at the licensed premises;~~

~~(e) All supporting documents required as attachments to the Commission's food service proposal form;~~

~~(f) If the application is by a private club for a Full On-Premises Sales license, a copy of the club's charter and copies of documentation of current dues-paid club membership of 200 or more members with voting rights in the affairs of the club.~~

845-005-0315

~~Applications: Refusal to Process~~

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

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

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

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

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

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

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

## **845-005-0360**

### **License Renewal: Requirement for Applicants**

#### License Renewal: Requirements for Applicants

##### ~~(1) Filing a Renewal Application:~~

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

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

~~(A) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee that ORS 471.311(3) requires, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission;~~

~~(B) A licensee must not sell or serve alcoholic beverages after the license expires; a violation of this subsection is a Category III violation. If the Commission receives a completed license renewal application within 30 days after the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee that ORS 471.311(3) requires, issue a letter of authority to resume operation, pending a decision by the Commission.~~

~~(c) The Commission will not renew a license if the Commission receives the renewal application more than 30 days after the license expires. A person who wants to resume selling or serving alcoholic beverages in this circumstance:~~

~~(A) Must submit a completed new application, including the documents and information required by the Commission.~~

~~(B) Must not sell or serve alcoholic beverages unless and until they receive authority to operate from the Commission after submitting the completed new application.~~

~~(d) A person relicensed under section (1)(c) of this rule who sold or served alcoholic beverages in violation of section (1)(b)(B) of this rule is subject to administrative sanctions.~~

~~(e) A person who sells or serves alcoholic beverages without a liquor license is in violation of ORS 471.475, a misdemeanor, and is subject to criminal prosecution.~~

~~(f) For purposes of this rule, a completed application is considered filed or received according to its postmark date, if legible, or according to the date the Commission actually receives the completed application, whichever is earlier.~~

~~(2) Completed Application: As used in this rule, a completed application is one that is completely filled out, is signed by the applicant and includes the appropriate fee(s), the~~

~~bond or equivalent that ORS 471.155 requires and the liquor liability insurance or bond that 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.~~

**(1) An applicant for a renewal of a license issued under ORS Chapter 471 must submit the following application materials and fees to the Commission:**

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

**(b) The license fee as described in ORS Chapter 471.**

**(c) The bond or equivalent as required by ORS Chapters 471 and 473.**

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

**(e) Fees as required under subsection (3) of this rule.**

**(f) If the renewal application is for a Full On-Premises Sales, Limited On-Premises Sales, Off-Premises Sales, or Brewery-Public House license, either:**

**(A) Confirmation that the applicant acquired the recommendation of its local government as per ORS 471.166; or**

**(B) Confirmation that the applicant's local government does not require that it give its recommendation.**

**(2) After an applicant has submitted the application materials required by subsection (1) 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 request or to otherwise perform its statutory duties.**

**(b) At any time, inactivate an application submitted under this rule when the Commission determines:**

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

**(B) The applicant 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.**

**(c) Authorize an applicant to continue exercising the privileges of the license past the expiration date of the license while the Commission determines the merits of the application or request.**

**(3) An applicant for a renewal of a license must submit the application materials and fees required by subsection (1) of this rule to the Commission as described in this rule:**

**(a) If the application materials and fees required by subsection (1) of this rule are received by the Commission prior to the expiration of the license but less than 20 days prior to expiration of the license and the Commission has not inactivated the application, the applicant must pay, in addition to the annual license fee, a fee that is 25 percent of the annual license fee. In computing this 20 day period, the Commission does not count the day the license expires. If the 20<sup>th</sup> 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. Despite this requirement, this subsection does not apply to an applicant for the renewal of a Brewery-Public House license.**

**(b) If the application materials and fees required by subsection (1) of this rule are received by the Commission after the expiration of the license but no more than 30 days after the expiration, and the Commission has not inactivated the application, the applicant must pay, in addition to the annual license fee, a fee that is 40 percent of the annual license fee. In computing this 30-day period, the Commission does not count the day the license expires. If the 30<sup>th</sup> 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. Despite this requirement, this**

rule subsection does not apply to an applicant for the renewal of a Brewery-Public House license.

(4) The Commission may waive the fees described in section (3) of this rule if the Commission determines that failure to submit the application materials and fees required by subsection (1) of this rule was due to unforeseen circumstances or to a delay in processing the application by the local government that is no fault of the applicant.

(5) An applicant may submit a request to the Commission to withdraw an application. Upon the Commission's acceptance, any authority issued by the Commission to the applicant is no longer valid.

(6) Under ORS 471.294, all licenses in ORS Chapter 471 are issued for a period of one year. All license privileges expire at 12 midnight on March 31, June 30, September 30, or December 31 each year. An applicant who has not received authorization from the Commission to continue the license privileges past the expiration date of the license must stop exercising all license privileges upon expiration of the license. Exercising an activity requiring a license under ORS Chapter 471 without a license or authority issued by the Commission is a Class A misdemeanor.

(7) The Commission provides notice to each local government of the annual licenses in the locality that are both due to expire within three months and are subject to local government renewal recommendations. If, within 60 days of the date the Commission has given notice to the local government, the local government files a written request with the Commission that meets the requirements of this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the application to renew a license.

(a) 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).

(b) For the purposes of this rule, an unfavorable recommendation is a recommendation from a local government to refuse a license or to issue a restricted license.

(8) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements of ORS Chapter 183.

## **845-005-0400**

### **Liquor Liability Insurance or Bond Requirement**

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; or

(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.

(c) Designate and maintain the Commission as a certificate holder.

(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, 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 stating consumption of alcoholic beverages will not occur on the licensed premises.

(3) Providing Proof of Insurance or Bond at Licensing. An applicant for a license listed in subsection (2) must provide to the Commission proof of insurance or bond prior to licensing.

(a) Proof of Insurance. The applicant must provide to the Commission a certificate of insurance that shows 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 with a valid bond identification number.

(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 proof of

insurance or bond prior to the Commission renewing the license **and includes but is not limited to the following:**

(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 proof of insurance as per subsection (3)(a) of this rule.

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

**(c) An attestation, affirmation, or similar verification that the applicant has met the requirement in subsection (1) of this rule.**

(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 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) Proof of insurance. The applicant must provide to the Commission a certificate of insurance that shows licensee 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.

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

(d) 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 subsection (5)(b)(c) 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.

#### **845-005-0405**

#### **Full or Limited On-Premises Licensee *Small-Scale* Temporary Off-Premises Private Catering Catered Events**

~~(1) ORS 471.184(1) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license, at locations other than the licensee's annually licensed premises when catering small-scale temporary events where the licensee will furnish food and beverage services for 100 or fewer guests of the catering client, to:~~

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

~~(b) Sell and deliver factory-sealed containers of malt beverages, wine, and cider direct to consumer for consumption off the licensed premises. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.~~

~~(c) This rule refers to this type of catering as small-scale private catering.~~

**(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. The licensee 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 of each event which includes the event date, duration, expected attendance, exact location, and a description of the type of event. The Commission must receive the notice within five calendar days of the 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.**

~~(2)~~ **(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.

~~(3)~~ **(4)** For purposes of this rule, ~~small-scale~~ **temporary off-premises** private catered events are events where:

- (a) There is a contract between a client and the licensee to provide **alcoholic beverages** and food service for a specific number of guests or participants;
- (b) ~~The number of guests or participants is 100 or fewer~~ **The event is not open to the general public unless the purpose of the event is fund raising for a charitable or nonprofit organization that is registered as such with Oregon's Secretary of State;**
- (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.

~~(4) ORS 471.184(1) authorizes the Commission to grant pre-approval to provide the service of small-scale private catering. Applicants must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to beginning the service of small-scale private catering. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.~~

~~(5) General pre-approval to provide the service of small-scale private catering shall not include any event at a particular location more than one license day per week, unless the event is a closed conference or seminar.~~

~~(6) An event that does not qualify as a small-scale private catered event under this rule must be approved as a large-scale private catered event or a temporary use of an annual license event under OAR 845-005-0410.~~

~~(7) The licensee's application for pre-approval to provide the service of small-scale private catering shall be made in writing and include:~~

- ~~(a) A written, dated, and signed plan the Commission determines adequately manages:~~
  - ~~(A) All events to prevent problems and violations;~~
  - ~~(B) Patronage by minors as set out in subsection (8) of this rule; and~~
  - ~~(C) Alcohol consumption by adults.~~

~~NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (4) of this rule to refuse to process any application that is not complete;~~

~~(b) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section;~~

~~(c) Identification of any proposed catering location that is owned or controlled by the licensee;~~

~~(d) Menu or sample menu showing type of food service proposed to comply with OAR845-006-0462; and~~

~~(e) Identification of premises proposed to be licensed if the request is for specific future events.~~

**(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) At any time inactivate the application 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.**

~~(8) (7) A plan for managing patronage by minors under subsection (7)(a) of 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.

~~(9)~~ **(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.

~~(10)~~ **(9)** The Commission may deny, cancel or restrict ~~temporary off-premises license use for small-scale~~ **general pre-approval of temporary off-premises** private catering **catered events** for any reason for which the Commission may deny, cancel or restrict a regular license.

~~(11)~~ **(10)** The Commission may deny, cancel, or restrict ~~temporary off-premises license use for small-scale~~ **general pre-approval of temporary off-premises** private catering **catered events** if the licensee has a serious violation history at ~~small-scale~~ **temporary off-premises** private catering ~~events~~ **catered events** within the past 36 months.

~~(12)~~ Full On-Premises Sales or Limited On-Premises Sales licensees may engage in ~~small-scale private catering without having received general pre-approval if the licensee first has given the Commission specific written notice of each event, which notice is received by the Commission within five calendar days of the event and includes the event date, duration, expected attendance, exact location, and a description of the type of event.~~

~~(13)~~ **(11)** When the Commission approves a written plan under ~~subsection (7)(a) of this rule,~~ the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

~~(14)~~ **(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 ~~small-scale~~ **temporary off-premises** private catering **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.**

845-005-0410

**Full or Limited On-Premises Licensee ~~Large-Scale Private Catered Events and Temporary Use of an Annual License for Events at Another Location~~**

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

**(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 events. 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) ORS 471.184(1) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license, at locations other than the licensee's annually licensed premises at large-scale catered events or temporary use of an annual license events after having obtained prior written Commission approval, to:~~

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

~~(b) Sell and deliver factory-sealed containers of malt beverages, wine, and cider direct to consumer for consumption off the licensed premises. Any deliveries must follow OAR 845-006-0392 and 845-006-0396.~~

~~(c) This rule refers to this type of events as either large-scale private catered events or temporary use of an annual license events.~~

~~(4) For purposes of this rule, large-scale private catered events are events, such as weddings, receptions, conferences, company picnics and parties, and company sponsored events, that:~~

~~(a) Are not open to the general public. However, a large-scale private event may be open to the general public if the purpose of the event is fund-raising for a charitable or nonprofit organization that is registered as such with Oregon's Secretary of State;~~

~~(b) Are catered for 101 or more guests or participants;~~

~~(c) Have a contract between the client and the licensee to provide alcohol and food service for a specific number of guests or participants;~~

~~(d) Have alcoholic beverage service as secondary to and in conjunction with food service at the event;~~

~~(e) Have the licensee not as the client; and~~

~~(f) Have the provision of alcohol at the catered event be not more than one license day's duration unless the event is a closed conference or seminar.~~

~~(5) An event that doesn't qualify as a large-scale private catered event under this rule may be approved as a temporary use of an annual license event under this rule.~~

~~(6) For purposes of this rule, temporary use of an annual license events are events at which the licensee:~~

~~(a) Does not have, or is not eligible for, pre-approval to provide the service of small-scale private catering as per OAR 845-005-0405; and~~

~~(b) Does not have, or is not eligible for, pre-approval to provide the service of large-scale private catering as per this rule.~~

~~(7) Application. Applicants for events under this rule must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to beginning the service of large-scale private catering or prior to the date of the temporary use event. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.~~

**(3) At these events, 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.

(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.**

~~(8) The Commission may grant pre-approval to provide the service of large-scale private catering for events that meet the requirements of section (4) of this rule. The licensee's application for pre-approval for future large-scale private catered events shall be made in writing and include:~~

~~(a) A written, dated, and signed plan the Commission determines adequately manages:~~

~~(A) All events to prevent problems and violations;~~

~~(B) Patronage by minors as set out in subsection (10) of this rule; and~~

~~(C) Alcohol consumption by adults.~~

~~NOTE: An application is not complete if this plan is not approved by the Commission.~~

~~The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;~~

~~(b) A brief description of the types of events to be catered;~~

~~(c) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section; and~~

~~(d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462.~~

~~(9) The Commission does not grant pre-approval for the temporary use of an annual license for events at another location. The licensee may apply for approval of each temporary use of an annual license event as provided in this section. The licensee's application for the temporary use of an annual license at another location must be in~~

~~writing and must be on a separate application form for each event. 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. The application must include:~~

- ~~(a) A written, dated, and signed plan the Commission determines adequately manages:~~
- ~~(A) All events to prevent problems and violations;~~
- ~~(B) Patronage by minors as set out in subsection (10) of this rule; and~~
- ~~(C) Alcohol consumption by adults.~~

~~NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;~~

- ~~(b) Identification of all individuals to be employed by the licensee to manage the premises proposed for license authority;~~
- ~~(c) Identification of the premises proposed to be licensed;~~
- ~~(d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;~~
- ~~(e) A written proposal showing compliance with the food service standards of OAR 845-006-0462;~~
- ~~(f) The recommendation of the local governing body where the licensed premises will be located; and~~
- ~~(g) License fees as established by ORS 471.311.~~

~~(10) **(7)** A plan for managing patronage by minors under subsections (8)(a) and (9)(a) of this rule must meet the following requirements:~~

~~(a) If the large-scale catered event premises or 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 catered or 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.~~

~~(11) **(8)** Minors are prohibited from the large-scale catered event premises or 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.~~

~~(12) (9)~~ The Commission may deny, cancel or restrict ~~temporary off-premises license use for large-scale private catering or~~ temporary use of an annual license for any reason for which the Commission may deny, cancel or restrict a regular license.

~~(13) (10)~~ The Commission may deny or restrict ~~temporary off-premises license use for large-scale private catering or~~ temporary use of an annual license events if the applicant has a serious violation history within the past 36 months.

~~(14) (11)~~ When the Commission approves a written plan under ~~subsections (8)(a) or (9)(a) of this rule,~~ the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

~~(15) (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 ~~large-scale private catering or~~ 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.**

## **845-005-0412**

### **Special Events Brewery License**

~~Section 2, Chapter 3, Oregon Laws 2016 authorizes the Commission to issue a Special Events Brewery (SEB) license to an Oregon Brewery licensee. This rule sets the qualifications and requirements for a Special Events Brewery license.~~

**(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.**

~~(4) (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 \$40.00 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.

(2) **(3)** Only the holder of a Brewery license issued under ORS 471.220 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 may allow the licensee to:

~~(a) Sell wine, malt beverages and cider at retail for consumption on or off the licensed premises;~~

~~(b) 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.~~

**(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.**

**(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.**

~~(3) (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.~~

~~(4) Applicants must apply in writing for an SEB license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.~~

~~(5) The application for a SEB license under this rule shall include:~~

~~(a) A written, dated, and signed plan the Commission determines adequately manages:~~

~~(A) The event to prevent problems and violations;~~

~~(B) Patronage by minors as set out in subsection (6) of this rule; and~~

~~(C) Alcohol consumption by adults.~~

~~NOTE: An application is not complete if this plan is not approved by the Commission.~~

~~The Commission may use subsection (4) of this rule to refuse to process any application that is not complete;~~

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

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

~~(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465(2)-(4);~~

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

- ~~(f) The recommendation in writing of the local governing body where the licensed premises will be located; and~~  
~~(g) License fees as established by ORS 471.311.~~

**(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 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.**

~~(6)~~ **(7)** A plan for managing patronage by minors under ~~subsection (5)(a)~~ of 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.

~~(7)~~ **(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.

~~(8)~~ **(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.

(9) **(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.

~~(10) The Commission may refund the SEB license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.~~

(11) When the Commission approves a written plan under ~~subsection (5)(a)~~ of 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.

**(13) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements of ORS Chapter 183.**

## **845-005-0413**

### **Special Events Distillery License**

~~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 a Special Events Distillery license.~~

**(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.**

~~(4)~~ **(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 \$10.00 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.

~~(2)~~ **(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.**

**(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.**

~~(3)~~ **(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.

~~(4)~~ Applicants must apply in writing for a Special Events Distillery license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

~~(5)~~ The application for a SED license under this rule shall include:

~~(a)~~ A written, dated, and signed plan. An application is not complete if this plan is not approved by the Commission. To approve a plan, the Commission must determine that the plan adequately manages:

~~(A)~~ The event to prevent problems and violations;

~~(B)~~ Patronage by minors as set out in subsection ~~(6)~~ of this rule; and

~~(C)~~ Alcohol consumption by adults.

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

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

- ~~(d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;~~
- ~~(e) A description of how the licensee will distinguish trade visitors from members of the general public, such as by providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, by using distinctive glassware for trade visitors, or by the use of badges or name tags;~~
- ~~(f) The recommendation in writing of the local governing body where the licensed premises will be located; and~~
- ~~(g) License fees as established by ORS 471.311.~~
- ~~(h) If the licensee will provide distilled liquor by the drink, a written proposal showing compliance with the food service standards of OAR 845-006-0465.~~

**(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 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.**

~~(6)~~ **(7)** A plan for managing patronage by minors under ~~subsection (5)(a)~~ of 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.

~~(7)~~ **(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.

~~(8)~~ **(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.

~~(9)~~ **(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.

~~(10)~~ **(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.

~~(11) The Commission may refund the SED license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.~~

(12) When the Commission approves a written plan under ~~subsection (5)(a)~~ of 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.

**(17) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements of ORS Chapter 183.**

**845-005-0414**

**Special Events Brewery-Public House License**

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

**(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.**

~~(1)~~ **(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 ~~\$40.00~~ 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.

(2) **(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 may allow the licensee to ~~sell wine, malt beverages and cider at retail for consumption on or off the licensed premises.~~

**(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.

(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.

~~(3)~~ **(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.

~~(4) Applicants must apply in writing for a Special Events Brewery-Public House license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.~~

~~(5) The application for a SEBPH license under this rule shall include:~~

~~(a) A written, dated, and signed plan the Commission determines adequately manages:~~

~~(A) The event to prevent problems and violations;~~

~~(B) Patronage by minors as set out in subsection (6) of this rule; and~~

~~(C) Alcohol consumption by adults.~~

~~NOTE: An application is not complete if this plan is not approved by the Commission.~~

~~The Commission may use subsection (4) of this rule to refuse to process any application that is not complete;~~

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

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

~~(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465(2) (4);~~

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

~~(f) The recommendation in writing of the local governing body where the licensed premises will be located; and~~

~~(g) License fees as established by ORS 471.311.~~

**(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 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.**

~~(6)~~ **(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.

~~(7)~~ **(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.

~~(8)~~ **(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.

~~(9)~~ **(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.

~~(10) The Commission may refund the SEBPH license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.~~

(11) When the Commission approves a written plan under ~~subsection (5)(a)~~ of 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.

**(13) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements of ORS Chapter 183.**

#### **845-005-0415**

#### **Special Event Winery and Special Event Grower Sales Licenses**

(1) ORS 471.223 authorizes the Commission to issue a Special Events Winery (**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; ~~at retail for consumption on or off the licensed premises at a location other than that designated as the winery's annually licensed premises~~

**(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; ~~at retail for consumption on or off the licensed premises at a location other than that designated as the grower's annually licensed premises.~~

**(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 \$10.00 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.**

**(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.**

~~(4) (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.~~

~~(5) Applicants must apply in writing for a Special Event Winery or Special Event Grower license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.~~

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

~~(a) A written, dated, and signed plan the Commission determines adequately manages:~~

~~(A) The event to prevent problems and violations;~~

~~(B) Patronage by minors as set out in subsection (7) of this rule; and~~

~~(C) Alcohol consumption by adults.~~

~~NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (5) of this rule to refuse to process any application that is not complete;~~

- ~~(b) Identification of the individuals to be employed by the licensee to manage the event proposed in the application;~~
- ~~(c) Identification of the premises proposed to be licensed;~~
- ~~(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;~~
- ~~(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;~~
- ~~(f) The recommendation in writing of the local governing body where the licensed premises will be located; and~~
- ~~(g) License fees as established by ORS 471.311.~~

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

~~(12)~~ **(11)** When the Commission approves a written plan under ~~subsection (6)(a)~~ of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

~~(13)~~ **(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.

**(13) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements of ORS Chapter 183.**

## **845-005-0440**

### **Temporary Sales Licenses**

(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 \$40.00 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 may authorize 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 may authorize the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.

~~(8) Applicants must apply in writing for a Temporary Sales License, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.~~

~~(9) The application for a Temporary Sales License under this rule shall include:~~

- ~~(a) A written and dated plan. An application is not complete if this plan is not approved by the Commission. To approve a plan, the Commission must determine that the plan adequately manages:
  - ~~(A) The event to prevent problems and violations;~~
  - ~~(B) Patronage by minors as set out in subsection (10) of this rule; and~~
  - ~~(C) Alcohol consumption by adults.~~~~
- ~~(b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;~~
- ~~(c) Identification of the premises proposed to be licensed;~~
- ~~(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;~~
- ~~(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;~~

~~(f) The recommendation in writing of the local governing body where the licensed premises will be located;~~

~~(g) License fees as established by ORS 471.311.~~

**(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.**

**(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 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 ~~subsection (9)(a)~~ of 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 (12) 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) The Commission may refund the Temporary Sales License fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(20) When the Commission approves a written plan under ~~subsection (9)(a)~~ of this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.

(21) 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.

(22) 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.

(23) 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.

**(24) When the Commission inactivates an application under this rule, the inactivation is not subject to the requirements of ORS Chapter 183.**

## **2. Modernize the liquor license refusal reasons related to applicant qualifications and public interest and convenience.**

When the Commission's investigation establishes a basis to deny a liquor license, the Commission is required to also determine if there are factors which may weigh for or against overcoming the denial basis. These factors are called "intervening circumstances."

Modernization will help the Commission to standardize how the Commission considers and analyzes intervening circumstances and will eliminate outdated rule concepts.

This modernization concept involves the following rules:

- Add: none
- Amend: 845-005-0325, 845-005-0326
- Repeal: none

### **845-005-0325**

#### **License Refusal Reasons: Applicant Qualifications**

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 inadequate financial resources to build or operate the premises proposed to be licensed, or has inadequate financial resources to meet the financial obligations of the proposed business. This section does not apply to license renewal applications.~~

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

~~(3) The applicant cannot or will not provide an employee who can communicate effectively with customers and Commission employees. This person must be on the licensed premises during the licensee's business hours. "Communicate effectively" means:~~

~~(a) Knowing how to lawfully sell and serve alcoholic beverages and being able to explain these practices to customers; and~~

~~(b) Understanding a Commission employee when he or she explains lawful sale and service of alcoholic beverages and responding in a way that the employee can reasonably understand.~~

~~(4)~~ **(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.

(5) **(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 that show the individual's tendency to disobey laws, rules, and regulations; such as probation and parole violations, **convictions for non-compliance with driver license requirements**, 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; ~~non-compliance with driver license requirements~~; 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.

~~(6)~~ **(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.**

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

~~(7)~~ **(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.

~~(8)~~ **(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.**

## **845-005-0326**

### **License Not Demanded by Public Interest or Convenience**

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

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

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

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

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

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

~~(b) Good cause to overcome this criterion is a showing by the applicant that the applicant will reasonably control all of the applicant's licensed premises to prevent problems described in paragraphs (1)(a)(A), (B), and (C) of this rule. Factors that affect this good cause determination may include, but are not limited to:~~

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

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

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

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

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

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

~~(2) **(1)** Proximity to Facilities:~~

~~(a) The licensed premises: (A) **will** be located within 500 feet ~~in urban or suburban areas~~ **within a city's limits** or within 1,500 feet ~~in a rural area~~ **outside a city's limits** of the boundary (measured property line to property line) of a licensed child care facility, ~~or~~ elementary or secondary school, a church, a hospital, nursing care facility or convalescent care facility, a park or children-oriented recreational facility, or alcohol and other drug treatment or rehabilitation facility; and, (B) ~~Will adversely impact the facility~~ **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) Good cause to overcome this criterion includes, but is not limited to, a showing by the applicant that **The intervening circumstances the Commission considers in**~~

**determining whether the refusal basis is supported or overcome may include 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.**

~~(A) The proposed operation is consistent with the zoning where the proposed premises will be located, is consistent with the general character of the area and the adverse impact will not unreasonably affect the facility; or~~

~~(B) The size of the proposed premises' community is so small that the proposed location is a reasonable location for the proposed operation.~~

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

~~(3)~~ **(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 a history of serious or persistent problems with unlawful activities, noise or disturbances~~ **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) Good cause to overcome this refusal basis includes, but is not limited to, a showing by the applicant that~~ **The intervening circumstances the Commission considers in determining whether the refusal basis is supported or overcome may include:**

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

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

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

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

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

### **3. Modernize food service requirements for a Full On-Premises Sales license.**

Modernization will implement updates that are needed to accommodate present-day food service operations and some housekeeping items. The primary revisions involve revising definition of a “meal” (which in turn allows for the elimination of the term “substantial food item”), eliminating the requirement that a seat must be indoor for it to count as a dining seat (and thus allow outdoor seating to be counted as dining seating), and update the meal period requirement for a Full On-Premises Sales licensee.

This modernization concept involves the following rules:

- Add: none
- Amend: 845-005-0321, 845-006-0399, 845-006-0459, 845-006-0460, 845-006-0461, 845-006-0462, 845-006-0464, 845-006-0465
- Repeal: 845-006-0490

#### **845-005-0321**

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

**(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(8). 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 division 5.

~~(1)~~ **(2)** Definitions. For this rule ~~and OAR 845-006-0490~~:

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

(b) “Full Member” means a living individual that has met the eligibility requirements as set out in the nonprofit corporation’s bylaws to be a full member and has been

designated as a full member by the nonprofit corporation. A full member must pay dues to the club, have full-time membership privileges equal to all other full members of the club, and be entitled to vote in all elections for directors of the nonprofit corporation licensee of the club.

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

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

~~(2)~~ **(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.

#### **845-006-0399**

#### **Sale of Mixed Drinks and Single Servings of Wine by Full On-Premises Sales Licensees for Off-Premises Consumption and Delivery**

(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 ~~substantial food item~~ **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.

## **845-006-0459**

### **Definitions**

#### **As used in OAR 845-006-0459 through 845-006-0469:**

~~(1) "Substantial food items" means food items prepared or cooked on the licensed premises and that are typically served as a main course or entrée. Some examples could include but are not limited to items such as fish, steak, chicken, pasta, pizza, sandwiches, dinner salads, hot dogs, soup and sausages. Side dishes, appetizer items, dessert items, and snack items such as popcorn, peanuts, chips and crackers do not qualify as substantial food items.~~

~~(2) “Meal” means a substantial food item offered together with at least one side dish or a substantial food item with two or more side dishes available to order separately. Side dishes include but are not limited to vegetables, fruit, salad, rice, french fries and bread~~

**(1) “Meal” means a food item, or combination of food items, prepared or cooked on the licensed premises that the Commission determines is a serving for one individual and that is or could be served as a main course or entrée. Food items that are snack items such as popcorn, peanuts, and chips do not qualify as a meal.**

~~(3) (2) “Different meals” means substantial food items 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.~~

~~(4) (3) “Dining seats” means seating at ~~indoor~~ tables or food counters as defined in OAR 845-006-0340(2)(j) 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.~~

## **845-006-0460**

### **Food Service ~~at~~ requirements for Commercial Establishments with a Full On-Premises Sales License**

~~(1) Purpose: The Oregon Liquor Control Act allows licensed commercial establishments with food service to sell distilled spirits by the drink. ORS 471.001(2) defines a commercial establishment as a place of business where food is cooked and served, which has adequate kitchen facilities for the preparation and serving of meals, and has dining facilities adequate for the serving and consumption of meals. A commercial establishment must also either serve meals to the general public or, if a for-profit private club, must serve meals to the club’s members and guests and comply with minimum food service requirements established by Commission rule. This rule sets the food service requirements for commercial establishments with a Full On-Premises Sales license. The applicant has the burden of proving it meets the standards and qualifications of this rule and OAR 845-006-0466.~~

**(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 club.**

~~(2) Food Service at Required Meal Periods.~~

~~(a) A business open after 5:00 pm must make available to its patrons in all areas where alcohol service is available an offering of at least five different meals during a regular meal period which must last at least three hours. At least three out of the five different meals used to meet the minimum meal requirement must include a main course or entrée (substantial food item) which has been prepared or cooked on the premises in some manner beyond the simple re-heating of a pre-cooked frozen food or carry-out item obtained from a business other than the licensed premises. A business may have fewer than five different meals in the premises or in an area if the Commission determines that the clearly dominant emphasis in the premises or in the area is food service after 5:00 pm.~~

~~(b) A business not open after 5:00 pm must make available to its patrons in all areas where alcohol service is available an offering of at least five different meals during a required meal period which must last at least two hours. At least three out of the five different meals used to meet the minimum meal requirement must include a main course or entrée (substantial food item) which has been prepared or cooked on the premises in some manner beyond the simple re-heating of a pre-cooked frozen food or carry-out item obtained from a business other than the licensed premises. A business may have fewer than five different meals in the premises or in an area if the Commission determines that the clearly dominate emphasis in the premises or in the area is food service before 5:00 pm.~~

~~(c) One method for showing that the clearly dominant emphasis in the premises or in the area is food service is for the Commission to determine that the gross receipts from the sale of meals and substantial food items to patrons for consumption in the premises or in the area exceed or are reasonably expected to exceed the gross receipts from alcohol sales when alcohol service is available.~~

## **(2) Food Service.**

**(a) Licensee must make at least five different meals available at all times and in all areas where alcohol 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 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.**

~~(3) Minimum Food Requirement at Times other than Required Meal Periods. At all times other than required meal periods and in all areas where alcohol service is available,~~

~~businesses must make available to their patrons an offering of at least five different substantial food items.~~

~~(4)~~ **(3)** Dining Seats during ~~Required Meal Periods~~: The licensed premises must have at least 30 dining seats during ~~required meal periods~~ **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(2)(i) do not qualify as dining seating. A premises may have less than 30 dining seats if the Commission determines that the clearly dominant emphasis of the premises is food service as described in ~~section (2)(c)~~ of this rule at all times and in all areas where alcohol service is available when open to the public.

~~(5)~~ **(4)** Violation of any section of this rule is a Category III violation.

#### **845-006-0461**

#### **Food Service Requirements for Nonprofit Private Clubs with a Full On-Premises Sales License**

(1) Purpose: ORS 471.175 allows nonprofit private clubs with food service to sell distilled spirits by the drink. ~~ORS 471.175(8) 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.

~~(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 substantial food items.~~

**(2) Licensee must make at least three different meals available at all times and in all areas where alcohol service is available.**

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

#### **845-006-0462**

#### **Food Service Requirements for Off-Premises Events with a Full or Limited On-Premises Sales License**

(1) Purpose: ~~ORS 471.184 allows Full and Limited On-Premises Sales licensees to have off-premises events under the license privilege. Notice and approval standards for these events are in OAR 845-005-0405 and 845-005-0410. Use of a liquor license for~~

~~off-premises events requires prior written approval from the Commission under the guidelines of 845-005-0405 or 845-005-0410. This rule sets the food service requirements for off-premises events with a Full or Limited On-Premises Sales license **under OAR 845-005-0405 and 845-005-0410.**~~

(2) If the off-premises event would qualify for general pre-approval under OAR 845-005-0405 ~~or 845-005-0410~~, the licensee must provide at all times and in all areas where alcohol service is available at least two different ~~substantial food items~~ **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 licensee may have fewer than two different ~~substantial food items~~ **meals** 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~~(2)(c)~~.

(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 ~~substantial food items~~ **meals** on the off-premises event's licensed premises at all times and in all areas where alcohol service is available; **or**

**(b)** ~~(4) If the off-premises event is not of a type that would qualify for general pre-approval under the standards of OAR 845-005-0410 and~~ Distilled spirits are not provided at the event, the licensee or a contract food service provider must provide at least two different ~~substantial food items~~ **meals** on the off-premises event's licensed premises at all times and in all areas where alcohol service is available.

~~(5)~~ **(4)** If the licensee does not directly provide the food service required under sections ~~(3) and (4)~~ of 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 substantial food items required under sections ~~(3) and (4)~~ of 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~~(2)(c)~~.

~~(6)~~ **(5)** Violation of any section of this rule is a Category III violation.

#### 845-006-0464

### Food Service Requirements for Other Public Locations with a Full On-Premises Sales License

(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.

(1) (2) Other Public Locations are businesses open to the public where meals or substantial food items 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.

(2) (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 ~~substantial food items~~ **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.**

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

#### 845-006-0465

### Food Service Requirements for ~~Other Public Locations with a Full On-Premises Sales License~~ a Temporary Sales License and other Special Events Licenses

~~Temporary sales and special event licensees approved under OAR 845-005-0440 must comply with the following food service standards whenever alcoholic beverage service is available.~~

**(1) This rule sets the food service requirements for a temporary sales license and other special event licenses.**

(1) (2) If distilled spirits are provided **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 ~~substantial food items~~ **meals**.

~~(2)~~ **(3)** If distilled spirits are not ~~provided~~ **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 ~~substantial food items~~ **meals**.

~~(3)~~ **(4)** If the licensee does not directly provide the food service required under ~~sections (1) and (2)~~ of 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 substantial food items required under ~~sections (1) and (2)~~ of 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~~(2)(c)~~.

~~(4)~~ **(5)** Violation of any section of this rule is a Category III violation

#### **845-006-0490**

#### **Requirements for a Full On-Premises Sales License for a Nonprofit Private Club**

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

#### **4. Modernize to allow licensed businesses to solicit and receive orders and payment for alcoholic beverages at all hours.**

Electronic transactions are a way of life and happen 24/7. Current regulations do not allow a business to legally solicit or receive orders and payment for alcoholic beverages during all hours.

Modernization will formally allow licensed businesses to solicit and receive orders and payment for alcoholic beverages at all hours. It will also extend by one hour the allowed hours of sale at licensed premises at airports. The limitation on the transfer or handoff of the alcoholic beverage to the retail consumer will remain the same.

This modernization concept involves the following rules:

- Add: none
- Amend: 845-006-0425
- Repeal: none

#### **845-006-0425 Hours of Sale**

(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 ~~5:00~~ 4:00 a.m. and 2:30 a.m. However, from ~~5:00~~ 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.**

## **5. Modernize to implement general housekeeping updates.**

Modernization will streamline by deleting unnecessary rules and making housekeeping changes to other rules.

This modernization concept involves the following rules:

- Add: none
- Amend: 845-005-0304, 845-005-0311, 845-005-0320, 845-005-0366, 845-006-0340, 845-006-0475, 845-006-0480, 845-006-0482
- Repeal: 845-005-0303, 845-006-0430, 845-006-0481

~~845-005-0303~~

### ~~Alcohol Impact Areas~~

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

~~process, designates an alcohol impact area and sets uniform limitations and requirements within it.~~

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

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

~~(a) Require affected businesses, citizens and city staff to make a serious and good faith effort to work cooperatively to develop a voluntary program to address the problems;~~

~~(b) Make reasonable efforts to identify and notify those likely to be affected, offering them an opportunity to participate in the city's process;~~

~~(c) Hold a public hearing where interested parties may comment on the documentation of problems and the proposed rule language;~~

~~(d) Offer in the public hearing an opportunity for affected businesses to explain why their business operation should be exempted from the proposed limitations and requirements; and~~

~~(e) Not take into consideration or make any proposal based on age, race, sex, disability, marital status, national origin, sexual orientation, color or religion.~~

~~(4) Petition Contents. The city must meet the petitioning requirements of the Administrative Procedures Act (APA), including a comprehensive petition which includes:~~

~~(a) An explanation of a serious and good faith effort by the affected businesses, citizens, and city staff to work cooperatively to develop a voluntary program to address the problem;~~

~~(b) A description and documentation of a lengthy, pervasive history of:~~

~~(A) Street drinking, public intoxication and related problems associated with off-premises sales that affect neighborhood livability. To document these problems, the city must use crime statistics, police reports, detoxification reports or similar records; or~~

~~(B) Noisy conduct, late night disturbances and related problems associated with on-premises consumption that affect neighborhood livability. To document these problems, the city must use police reports or other records of government bureaus or departments.~~

~~(c) A list of all the licensed businesses in the proposed alcohol impact area, a description of the parts of those businesses which may be contributing to the problem and an explanation why it is not practical to determine the specific sources of the problems;~~

~~(d) Proposed rule language that designates the boundaries of the proposed alcohol impact area and a rationale for the boundaries;~~

~~(e) Proposed rule language to limit off-premises alcohol sales, to limit hours of alcohol sales or to set any other limitations or requirements for the alcohol impact area designed to reduce the documented problems;~~

~~(f) An assessment of the positive and negative impacts the proposed limitations and requirements would have, both short and long range, on:~~

~~(A) Each licensed business within the proposed alcohol impact area;~~

~~(B) The economic viability of the proposed alcohol impact area as a whole; and~~

~~(C) The surrounding areas and the local governing body.~~

~~(g) A list of all the licensed businesses in the proposed alcohol impact area that the city intends to not cover by the proposed limitations and requirements and an explanation of why they should not be covered; and~~

~~(h) A list of all the licensed businesses in the proposed alcohol impact area that requested an exemption from the limitations and requirements. The city must explain why it thinks each requesting business operation should or should not be exempted.~~

~~(5) Basis for Automatic Denial of Petition. The Commission automatically denies any petition that does not include the information required in section (4) of this rule.~~

~~(6) Commission's Notice of Rulemaking. If the Commission initiates rulemaking to consider a proposed alcohol impact area, the Commission follows its Notice of Rulemaking procedures, schedules a public rulemaking hearing and also:~~

~~(a) Makes a reasonable effort to identify and notify all neighborhood and business associations (registered with the Commission) and all licensees located in, or within 500 feet, of the proposed alcohol impact area; and~~

~~(b) Sends a copy of the city's proposed rule language to each of those associations and licensees.~~

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

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

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

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

~~(A) Limit off-premises alcohol sales;~~

~~(B) Limit hours of alcohol sales; or~~

~~(C) Set any other limitations or requirements for the alcohol impact area that may reduce the documented problems, such as limiting the number of new outlets in the area.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(C) The city which originally petitioned the Commission.~~

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

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

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

## **845-005-0304**

### **Local Government Recommendations: Requirements for Local Governments and License Applicants for Issuance of a License**

(1) ORS 471.166 provides that the Commission may take into consideration a local government's timely written recommendation on initial and renewing licenses before issuing 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 ~~Sections (5) and (6)~~ **section (4)** of this rule, the Commission shall proceed as if the local government has made a favorable recommendation.

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

**(3) The Commission requires a person who has applied for a license issued under ORS Chapter 471 to provide to the local government a copy of the license application form. Failure of an applicant to provide a copy of the license application form to the local government is a basis to inactivate the application under OAR 845-005-0312.**

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

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

**(4) A local government has up to 45 days from the date it receives the license application form 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.**

~~(6) The Commission provides written notice to each local government of the annual licenses in the locality that are both due to expire within three months and are subject to local government renewal recommendations. If, within 60 days of the date the Commission has given notice to the local government, the local government files a written request with the Commission that meets the requirements of section (7) of this rule, the Commission shall allow the local government an additional 45 days within which to render its written recommendation on the application to renew a license.~~

(7) **(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).

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

**845-005-0311**

**True Name on Application; Interest in Business**

~~(1) Definitions. As used in this rule:~~

~~(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) **(1)** True name on application. An application for a license must specify the real and true names of all persons and entities that have an ownership interest in the business proposed to be licensed. However, the Commission may waive an ownership interest in the business to be licensed in accordance with (6) of this rule and may waive any materials required by the Commission to accept or process an application in accordance with (7) of this rule. **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 (5) of this rule.**

(3) **(2)** License privileges. License privileges are available only **to** a licensee of record **listed by the Commission on the license certificate as a license holder for the license** and only for the premises designated on the license **certificate**.

~~(4)~~ **(3)** Ownership Interest. Under ORS 471.313(4)(h), the Commission may refuse to issue a license if ~~the~~ **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)~~ **(5)** 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 ~~owner~~ **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 ~~owner~~ **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 ~~owner~~ **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)~~ **(5)** 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 ~~owner~~ **applicant or licensee**, who ~~sells or manufactures alcoholic beverages at the premises or who imports alcoholic beverages to the premises or is entitled to sell or manufacture alcoholic beverages at the premises or import alcoholic beverages to the premises~~ **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)~~ **(5)** 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)~~ **(5)** 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 ~~or entity~~ defined as an applicant or licensee ~~as per OAR 845-006-0301~~ **under Commission rules.**

~~(5)~~ **(4)** 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 ~~the~~ a licensee, ~~or license~~ applicant, 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.**

**(i) Any person who exercises control or authority, or is entitled to exercise control or authority, over an entity who is an applicant or licensee under Commission rules.**

~~(6) The Commission may waive the ownership interest requirements in this rule. Examples of waivers include, but are not limited to:~~

~~(a) The ownership interest of non-applicants fitting under subsection (4)(e) or (4)(f) of this rule when the only area of the proposed licensed premises that the non-applicant has a right of access to is a common area and the owner of the property has given the applicant or licensee the exclusive right to engage in alcohol sales and service and permit individuals to consume alcohol in the licensed portion of the common area. A common area is an area shared by more than one tenant, including the applicant for the license, that is appurtenant, adjacent, or in the immediate vicinity of an area leased or rented exclusively by the applicant(s) and that is also part of the licensed premises. The right of multiple tenants to use the area in common is typically described in the lease or rental agreement.~~

~~(b) The ownership interest of non-applicants who manage or control the premises or aspects of the business at the premises provided the management or control does not involve 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 or will be a licensee of record. 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 non-applicants fitting under subsections 4(a) or 4(d)-(f) of this rule who hold their own manufacturer or wholesaler liquor licenses, or who are eligible to hold such licenses, at the premises to be licensed. For purposes of this subsection, a brewery-public licensee is a manufacturer. Examples of this include, but are not limited to, licensees operating under an alternation of proprietors, custom crush, or other similar agreement.~~

**(5) Despite subsection (3) 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.**

~~(7) The Commission may waive the requirement to submit certain application materials identified in OAR 845-005-0312 when the applicant has provided written documentation to the Commission that control of the day-to-day operation of the business has been relinquished through a management agreement, or similar written agreement, to one or more parties who are also applying 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. Examples of materials waived for the applicant who has relinquished control of the day-to-day operation of the business include, but are not limited to, the Individual History form and the Statement of Funding form.~~

### **845-005-0320**

#### **License Refusal Reasons that Can Not Be Overcome**

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 or sales authority 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 a commercial establishment as defined in ORS 471.001(2) and will not be open to the public to the extent Commission rules require.~~

~~(4)~~ **(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.

~~(5)~~ **(4)** The applicant is a retail sales agent of the Commission ~~with a contract for an exclusive agency or seeks to exercise the license privileges in an exclusive sales agent's premises.~~ **Despite this requirement, a retail sales agent may obtain a license as allowed by Commission rules.**

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

~~(7)~~ **(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.

~~(8)~~ **(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.

~~(9)~~ **(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.

~~(10)~~ **(9)** The applicant for an initial license has not completed Commission-given law orientation.

**(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.**

#### **845-005-0366 License Surrender**

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

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

**(a) A licensee must submit a written request to the Commission in a form and 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.**

**845-006-0340**  
**Minor Postings**

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

(2) Definitions. For this rule:

(a) "Eating food is the predominant activity" means the Commission has determined that more people eat food than drink alcohol (or the Commission determines that the licensee has reasonably projected this).

(b) "Drinking predominates" means the Commission has determined that more people are, or at times are likely to be, drinking alcohol than not drinking alcohol.

(c) "Drinking environment" means the Commission determines that there is a combination of conditions or factors in a premises, room, or area which make it likely that minors will obtain alcohol or which create an environment where drinking alcohol is or appears to be the predominant activity. Some examples of factors that contribute to a drinking environment include but are not limited to cocktail tables, a bar, bar equipment and accessories, dim lighting, alcohol advertising, events or entertainment primarily targeted to adults, and events or operations where the monitoring of patron behavior is or could be insufficient to prevent minors from obtaining alcohol.

(d) "Recent serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors, at the premises by the applicant or licensee within the last two years. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation at the premises by the applicant or licensee within the last two years; or

(C) The applicant or licensee has incurred an immediate license suspension at the premises within the last two years; or

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

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

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

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

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

- (i) "Bar" means a counter at which the preparation, pouring, serving, sale or consumption of alcoholic beverages is the primary activity.
- (j) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale or consumption of food.
- (k) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.
- (l) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.
- (m) "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act.
- (n) "Minor control plan" means a written, dated and signed plan submitted to the Commission by an applicant or licensee for a premises, room, or area that shows where and when minors are permitted and the control measures used to prevent minors from obtaining alcohol, prohibit minors when drinking alcohol predominates, and minimize minors' exposure to a drinking environment.

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

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

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

~~(a)~~ **(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; ~~or~~

(B) During the activity, the premises, room, or area has or will have entertainment described under section (4)(b) of this rule. The Commission does not grant relaxations if any of this entertainment is visible from the area where the activity is held. Despite this prohibition, a minor in a room or area where minors are allowed may go to and return from a rest room that is in a room or area prohibited to minors as per subsection (4)(d) of this rule; 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.**

~~(b)~~ **(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. ~~Some examples are wedding receptions and family reunions~~ 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.

~~(c) The Commission does not grant a temporary tightening when it is not convinced that the licensee's plan is adequate to prevent minors from entering the premises, room, or area.~~

~~(d)~~ **(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) ~~Permanent~~ Changes to Minor Postings:

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

(A) The ~~existing~~ posting is inconsistent with this rule;

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

(C) The Commission determines that the **licensee is not following the control plan or that the** ~~minor~~ control plan ~~that is the basis for the minor posting~~ is not adequate to control the premises, room, or area.

(b) When the Commission changes a minor posting, and the licensee does not agree to the change, the licensee has a right to contest the decision. The licensee must comply with the changed minor posting unless the change is overturned through the contested case process.

(c) A licensee may not change a minor posting or the ~~minor~~ control plan on which a posting is based, **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 ~~minor~~ control plan when:

(A) The requested posting is inconsistent with this rule;

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

(C) The Commission determines that the proposed ~~minor~~ control plan is not adequate to control the premises, room, or area.

(e) When the Commission refuses a licensee's request to change a minor posting or minor control plan, the licensee has a right to contest the decision. The licensee must comply with the assigned minor posting unless the refusal is overturned through the contested case process.

(8) ~~Minor~~ Control Plan:

(a) The ~~minor~~ control plan must explain where and when minors are permitted and the control measures the applicant or licensee will use to prevent minors from obtaining

alcohol, prohibit minors when drinking alcohol predominates, and minimize minors' exposure to a drinking environment.

(b) When the Commission approves a ~~minor~~ 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 ~~minor~~ control plan;

(c) A licensee must use the minor posting signs provided by the Commission and place minor posting signs in full public view as directed by the Commission. A licensee must immediately replace any altered, unreadable or missing sign. Failure to do so is a Category V violation.

(10) Other Information on Minor Postings.

(a) This rule does not apply to a premises with a temporary license that is not on any part of a premises with 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; and a temporary use of an annual license issued under OAR 845-005-0410.

(b) This rule does not apply to premises with a liquor license at a tribal gaming facility.

(c) To prevent violations from occurring or reoccurring, or in response to the licensee's request, the Commission may assign a minor posting to the following businesses where a minor posting is not usually assigned:

(A) Nonprofit or for-profit private clubs licensed as per ORS 471.175;

(B) Pre-approved small-scale private catered events as per OAR 845-005-0405 and pre-approved large-scale private catered events as per 845-005-0410.

(d) Minor Postings apply 24 hours a day, including when the premises is closed to the public or the liquor license is suspended, except that the minor posting for an outdoor area that is on a sidewalk or other public right-of-way applies to that area only during the times the premises is open for business and there is the sale, service or consumption of alcohol in the outdoor area.

(e) Notwithstanding other provisions, a minor in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old may be in a premises or area where minors are prohibited if the licensee permits it. The minor must not buy, possess, or drink alcoholic beverages.

845-006-0430

*Alcohol Management in Public Venues*

~~(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).~~

## **845-006-0475**

### **License Changes Requiring Notice/Prior Approval**

(1) As used in this rule:

(a) "Manager" means any person who has decision making authority and whose primary duties include control over the operation of the licensed premises and its employees with respect to the sale/service of alcoholic beverages. This definition may apply to more than one person at a particular licensed premises;

(b) "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;

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

(d) "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) **(1)** All licensees:

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

~~(b) Whenever a person named on the license wants to remove his/her name from the license, the licensee(s) must notify the Commission on the appropriate form and provide documentation that shows the person no longer has an interest in the licensed business;~~ **A person must receive Commission approval prior to being added or removed as an applicant or 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 suspend or cancel a license if the licensee fails to notify the Commission, obtain prior approval or to take corrective action as this rule requires. Where extraordinary circumstances make it impossible or impractical to obtain prior approval, the Commission may give conditional approval immediately. After investigation, the Commission may withdraw its conditional approval and give the licensee a reasonable deadline to rescind the action, prior to any hearing to contest the disapproval;~~

~~(d) The Commission may disapprove a manager, a change or acquisition described in this rule for any of the grounds for which it may deny a license. If the Commission disapproves a change, acquisition or manager, it will notify the licensee in writing and set a reasonable time for divestiture or for removal of the person;~~

~~(e) Any change in an investment interest in a business that holds a committed license and is not yet in operation may result in the Commission withdrawing that committed license.~~

~~(3) Managers: The Commission may require a manager to complete an individual history if there is a violation or a compliance problem with the licensed premises.~~

~~(4) **(2) Corporate licensees (not publicly traded corporation) When a licensee is an entity:**~~

~~(a) The corporate licensee **entity** must obtain prior written approval from the Commission whenever a person intends to acquire or accumulate ownership or control of ten percent or more of any class of stock in a licensed corporation **20% or more ownership of the entity. The Commission may waive this requirement if it determines the entity is listed on an exchange registered with the U.S. Securities and Exchange Commission;**~~

~~(b) The corporate licensee **entity** must notify the Commission immediately in writing when there has been a change in an officer or director **obtain written approval from the Commission prior to the entity adding a person to the entity who would be considered an applicant or licensee under Commission rules. The Commission may waive this requirement if it determines that the person's ownership in the**~~

**entity does not allow the person to exercises control or authority, or be entitled to exercise control or authority, over the entity.**

~~(5) Corporate licensees (publicly traded):~~

~~(a) The corporate licensee must notify the Commission within 60 days of the acquisition whenever a person acquires or accumulates ownership or control of ten percent or more of any class of stock;~~

~~(b) The corporate licensee must notify the Commission by July 1 of each year of changes in officers and directors. The Commission can take immediate action to disapprove a change that it learns of prior to the annual notification date.~~

~~(6) Partnership licensees:~~

~~(a) The licensee must obtain prior written approval from the Commission whenever a person intends to become a general partner in a partnership or intends to acquire or control ten percent or more of the total investment commitment in a licensed limited partnership;~~

~~(b) The licensee must notify the Commission in writing whenever an existing approved partner increases or decreases his/her investment interest.~~

~~(7) Other legal entities: The Commission may require any legal entity other than a corporation, partnership or individual to provide notice and obtain approval of persons who have business relationships with the licensed entity. Commission staff will specify these requirements depending upon the nature of the licensed entity.~~

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

**845-006-0480**

**Changes in Premises or Operation: Notice Required**

~~(1) The Commission issues licenses with the understanding that the licensee will operate the business as proposed at the time of licensing. The Commission also realizes that a licensee may need to change the business during the licensing year. This rule provides a way for a licensee to make changes, and for the Commission to be assured that the changes will meet the criteria for licensing.~~

~~(2) A licensee licensed to sell alcoholic beverages at retail for on-premises consumption must notify the Commission in writing and provide an updated floor plan whenever the licensee changes the physical dimensions of the licensed premises within 30 days of the change.~~

**(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.**

~~(3) A licensee must notify the Commission in writing whenever the licensee changes the business trade name within 30 days of the change.~~

~~(4) (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.**~~

~~(5) Failure to provide the notice that this rule requires is a Category V violation.~~

~~845-006-0481~~

~~Notification When Premises Closed: Time Limit for Operation~~

~~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.~~

**845-006-0482**

**Closure of Premises for Private Uses**

~~(1) Limited On-Premises Sales licensees and Full On-Premises Sales **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.** The licensee must give notice of such closures as provided in this rule:~~

~~(a) A Full On-Premises Sales licensee licensed as a commercial establishment as authorized by ORS 471.175(2)(c) must notify the Commission in writing at least 48 hours before full closure of the licensed premises for private use. Partial closure of the licensed premises does not require notification to the Commission except as section (1)(b) of this rule requires;~~

~~(b) All Limited On-Premises Sales licensees and Full On-Premises Sales licensees must notify the Commission in writing prior to the event if any private use not approved at the time of licensing will restrict the general public more than once per week from areas that were approved for patronage by the general public.~~

~~(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.

## **6. Modernize by clarifying frequently used terms.**

Modernization will organize frequently used terms into two rules.

This modernization concept involves the following rules:

- Add: two new rules in Division 5
- Amend: 845-006-0301
- Repeal: none

### **NEW RULE** **845-005-xxxx** **Definitions**

**The following definitions apply to licensing and compliance unless otherwise specified:**

**(1) “Applicant” means a person who has applied for a license or permit, or the renewal of a license or permit, issued under ORS Chapter 471 and any person included as an applicant under Commission rules.**

**(2) “Entity” means an association, corporation, limited liability company, partnership, trust, or any similar entity that has legal standing under the laws of Oregon.**

**(3) “Individual” means a human being.**

**(4) “Licensee” means an applicant who has been approved by the Commission as a licensee and is a holder of a license issued under ORS Chapter 471.**

**(5) “Person” means an individual or entity.**

### **NEW RULE** **845-005-xxxx** **When an Applicant is an Entity**

**(1) When an applicant is a corporation, an applicant includes the president, secretary, and any person who owns or will own 20% or more of the corporation.**

**(2) When an applicant is a member-managed limited liability company, an applicant includes any person who is a member.**

**(3) When an applicant is a manager-managed limited liability company, an applicant includes all managing members and any person who is a member who owns or will own 20% or more of the limited liability company.**

**(4) When an applicant is a limited partnership, an applicant includes all general partners.**

**(5) When an applicant is an entity other than described in (1) – (4) of this rule, an applicant includes:**

**(a) Any person who exercises control or authority, or is entitled to exercise control or authority, over the applicant entity, regardless of the person's title. When such person is an entity other than the applicant entity and is other than an entity described in (1) – (4) of this rule, an applicant includes:**

**(A) Any person who exercises control or authority, or is entitled to exercise control or authority, over the separate entity, regardless of the person's title, and**

**(B) Any person who owns or will own 20% or more of the separate entity.**

**(b) Any person who owns or will own 20% or more of the applicant entity. When such person is an entity other than the applicant entity and is other than an entity described in (1) – (4) of this rule, an applicant includes:**

**(A) Any person who exercises control or authority, or is entitled to exercise control or authority, over the separate entity, regardless of the person's title, and**

**(B) Any person who owns or will own 20% or more of the separate entity.**

845-006-0301

"Applicant" and "Licensee" Defined

*(1) A license issued by the Commission shall include as licensees under a single license the individuals or legal entities who own or have an interest in the business as defined in OAR 845-005-0311(3). If any such licensee is a corporation or other legal entity, the following persons shall also be included as licensees under the license:*

- ~~(a) Each principal officer as defined in OAR 845-006-0475(1)(d);~~  
~~(b) Each director;~~  
~~(c) Each person or entity who owns or controls 10% or more of the entity's stock or who holds 10% or more of the total membership interest in the entity or whose investment interest is 10% 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.~~

### **Applicant and Licensee Responsibility for Violations and Resolutions**

**In any proceeding brought under the authority of ORS 471.313 or subject to the penalty provisions of 471.315, each applicant and licensee shall be individually responsible for any violation or other resolution of the proceeding and shall be liable for any sanction.**

#### **7. Modernize the outdoor area rules.**

Modernization will subject outdoor and indoor licensed areas to essentially the same requirements.

This modernization concept involves the following rules:

- Add: none
- Amend: none
- Repeal: 845-005-0329, 845-005-0331, 845-006-0309

#### ~~845-005-0329~~

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

~~(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.~~

845-005-0331

~~Licensing Outdoor Areas Abutting a Licensed Building; Licensing Abutting Intermittent and Limited Duration Expansion Areas~~

~~(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:~~

~~(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) 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:~~

~~(B) The primary activity in the expanded area is patrons consuming food; or~~

~~(C) 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.~~

845-006-0309

#### ~~Requirements for Outdoor Areas Not Abutting a Licensed Building~~

~~(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.~~

## **8. Modernize by exempting certain activities on the part of technology providers from the licensing requirement.**

Modernization will formally allow technology providers to advertise alcoholic beverage products to consumers and accept orders and payment for alcoholic beverages from consumers without an OLCC license provided the activity is done on the behalf of the OLCC, licensees, permittees, or retail sales agents.

This modernization concept involves the following rules:

- Add: one new rule in Division 5
- Amend: none

- Repeal: none

## **NEW RULE**

**845-005-xxxx**

### **Exemption from License Requirement by Technology Providers**

**(1) For the purposes of this rule, “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.**

**(2) A person providing technology such as a website, mobile application, or other electronic service used by the Commission, licensees, retail sales agents, distillery retail outlet agents, or permit holders may, on behalf of the Commission, licensees, retail sales agents, distillery retail outlet agents, or permit holders:**

**(a) Advertise alcoholic beverages to final consumers, and**

**(b) Accept orders and payment for alcoholic beverages from final consumers.**

**(3) A person providing technology and services pursuant to subsection (2) of this rule is exempt from obtaining a license under ORS Chapter 471, provided that only the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder at all times:**

**(a) Controls the acceptance of orders for alcoholic beverages,**

**(b) Directly receives and retains all monies paid for alcoholic beverages by the final consumer,**

**(c) Directly provides the alcoholic beverages to the final consumer,**

**(d) Provides only the type of alcoholic beverages allowed by the license, retail sales agent, distillery retail outlet agent, or permit, and**

**(e) Controls the advertisement of alcoholic products. This includes, but is not limited to:**

**(A) Clearly communicating that the offer and sale of the alcoholic beverages is from the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder, and**

**(B) Clearly communicating that the payment for the alcoholic beverages is to the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder.**

**(4) A person providing technology and services pursuant to subsection (2) of this rule may deliver alcoholic beverages on behalf of the Commission, licensee, retail sales agent, distillery retail outlet agent, or permit holder to a final consumer only if the person is approved as a for-hire carrier under OAR 845-005-0424.**

**(5) A licensee, retail sales agent, distillery retail outlet agent, or permit holder using a person to provide technology and services pursuant to subsection (2) of this rule may be held responsible for the technology provider's failure to follow the requirements of this rule and OAR 845-005-0424. A violation of this rule section is a Category III violation.**

**(6) 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.**

**9. Update compliance rules to give the Commission better tools to do the following:**

**9a. Ensure the safety of minor entertainers performing in an area of a premises prohibited to minors.**

Modernization will allow the Commission to refuse to approve, or to revoke its approval of, allowing minor entertainers in an area prohibited to minors.

This modernization concept involves the following rules:

- Add: none
- Amend: 845-006-0335
- Repeal: none

### **845-006-0335 Age Verification, Minors on Licensed Premises**

**(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**.

(b) Licensees that allow minor entertainers to perform on the licensed premises where minors would normally be prohibited must maintain proof of the minor entertainer's identification and age on the premises, and make this information available for Commission inspection upon request. Acceptable forms of identification 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, such as an area with a Number 3 minor posting, 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 ~~must leave~~ **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, ~~no alcohol service or consumption is permitted~~ alcoholic beverages are prohibited in the Commission-approved designated area in the approved designated area where minor entertainers have been approved to stay when not performing.**

(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 it has a reasonable belief that ~~licensee's proposed plan creates a compliance risk~~ **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 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.**

~~(D) If conditions become unsuitable, the Commission may revoke its approval.~~

(e) If the minor is under 18 years old, and the licensee proposes to employ that minor 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 and minor must make sure the minor has the written permission of the appropriate juvenile court judge as required by ORS 167.840(2).

(f) If the minor is under 18 years old, and the licensee proposes to employ that minor to perform or entertain on the licensed premises in a capacity other than described in (6)(e) of this rule, before allowing the minor to perform on the licensed premises the licensee must apply for and receive prior written permission from the Administrator of the Oregon Liquor Control Commission, or the Administrator's designee. Application must be made upon a form supplied by the Commission. The Administrator or designee shall grant such permission only if:

(A) The parents or legal guardians of the minor have 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.

### **9b. Address the mixing of marijuana together with an alcoholic beverage.**

Modernization will insert updated language to prohibit a licensee or permittee from mixing or combining an adult use cannabinoid or an industrial hemp commodity or product that contains cannabinoids and is intended for human consumption with an alcoholic beverage.

This modernization concept involves the following rules:

- Add: none
- Amend: 845-006-0345
- Repeal: none

#### **845-006-0345**

##### **Prohibited Conduct**

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 or an industrial hemp commodity or product that contains cannabinoids and is intended for human consumption with an alcoholic beverage. Violation of this section is a Category III violation.**

### **9c. An applicant or licensee must notify the OLCC of certain convictions.**

The OLCC already requires individuals to disclose certain convictions to the OLCC at the time of license renewal.

The proposed rule will require individuals to disclose convictions closer to the date of the actual conviction, which in turn, will allow the OLCC to conduct a timely assessment of the incident.

This modernization concept involves the following rules:

- Add: one new rule to Division 6
- Amend: none
- Repeal: none

**NEW RULE**

**845-006-xxxx**

**Notification of Conviction**

**(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.**