

ADMINISTRATIVE HEARINGS DIVISION
September 11, 2020

STIPULATED SETTLEMENT AGREEMENTS FOR LICENSE APPLICANTS

1. O'Malley Operating, LLC
David O'Malley, Mbr.
WONDER BUR CAFÉ
116 SW H Street
Grants Pass, Oregon 97526
(Application for Full-On
Premises Sales License)

ORS 471.313 states, in pertinent part:

The Commission may refuse to license any applicant under the provisions of this chapter if the Commission has reasonable ground to believe that any of the following to be true:

***** (5) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service or alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is 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.

***** The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and the patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

Commission staff proposed to issue the requested Full On-Premises Sales license with the following restrictions:

1. The sale and service of alcohol is prohibited from 11:30 pm to 7:00 am on succeeding calendar day. Patron possession and

Note: Licensee was issued a Notice of Proposed License Restrictions, dated August 24, 2020. Licensee accepts the imposition of the listed restriction and wishes to dispose of this licensing matter by settlement.

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CAFÉ**)

consumption of alcohol is prohibited from 12:00 am to 7:00 am on the same calendar day.¹

2. Patron entry and reentry is prohibited from 11:30 pm to 7:00 am on succeeding calendar day.
3. A patron may possess no more than one container of alcohol at one time and each container of alcohol will contain no more than 16 ounces of malt beverage, 16 ounces of cider, 6 ounces of wine, or 2 ounces of distilled spirits.
4. Any drink containing distilled spirits shall not contain any malt beverage, wine, or cider, and shall contain an amount of nonalcoholic beverage that is equal to or greater than the amount of distilled spirits.
5. Licensee will use a one-ounce measuring device to measure the amount of distilled spirits poured into a container intended for patron possession.
6. When the premises is open to the public Thursday through Saturday after 10:00 pm, licensee will have at least two DPSST-certified staff members on-duty and on the premises from 10:00 pm to the close of business. All on-duty DPSST-certified staff members must wear an outer garment that clearly displays the word "security" in a readable size and font on the person's chest and back. The people acting in this role will not be allowed to mix, sell, or serve alcohol while on-duty as DPSST-certified staff.
7. When the premises is open to the public Thursday through Saturday after 10:00 pm, from 10:00 pm to the close of business licensee will ensure that the areas adjacent to or outside and in the immediate vicinity of the premises are patrolled at least every 15 minutes by at least one DPSST-certified security person to discourage loitering and illegal activity. Licensee will ensure that any violent or illegal activity observed within or outside the premises is immediately reported to the Grants Pass PD.

¹ At the time of this Agreement, licensed premises are subject to more restrictive closing times as ordered by the Governor and Oregon Health Authority to protect public health and safety in a time of pandemic. Nothing in these restrictions is intended to alter or amend COVID-related protective measures ordered by other state authorities.

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8. Other than when the DPSST-certified security person is patrolling the areas adjacent to or outside and in the immediate vicinity of the licensed premises, one of the DPSST-security staff will be stationed inside the licensed premises and one will be stationed at the door for the business.
9. The level of lighting inside of the premises will always be sufficient to allow each person monitoring patron activity to see within a radius of at least five feet from his/her person and to be able to read common newsprint.
10. Licensee will maintain a security video surveillance system with digital video recording capabilities sufficient to capture clear and specific legible video of all areas controlled by the licensee, including the lot adjacent to the licensed building. Licensee will maintain a copy of the surveillance footage for a minimum of 30 days and will make the video surveillance footage available and unaltered, upon request to any OLCC Inspector or law enforcement officer.

SYNOPSIS: Applicant applied for a Full On-Premises License at a location that had previously been found to have a History of Serious and Persistent Problems. The new applicant is unrelated to the entity that previously operated the business – he did not have an ownership interest in the previously licensed entity and is not a former employee of the premises. The applicant began operating under a temporary authority to operate in May 2020 with restrictions. An inspection confirmed that applicant was in substantial compliance with the restrictions and that there had not been any HSPP-qualifying incidents since the issuance of the temporary authority. It was determined that granting the license with the proposed restrictions was appropriate.

TERMS OF AGREEMENT

1. The Commission will renew Licensee's Full On-Premises Sales license with the listed restriction for the above location after this agreement is ratified and after Staff determine that the renewal application is complete.
2. Licensee accepts the imposition of the listed restriction on the license identified in this agreement without any conditions or reservations.
3. Licensee waives any and all rights to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183), to judicial review, and to otherwise challenge this agreement or the Final Order resulting from it.
4. This agreement is conditioned on the final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at a commission meeting. If the Commission does not accept and approve this agreement in its entirety, it is deemed null and void, and Applicant's hearing rights, if any, will be restored. If the Commission accepts and approves this agreement in its entirety, Applicant withdraws any request for hearing.

2. Junoy Corporation
Peter Yoo, Pres/Sec/Dir/Stkhldr
PO Box 1072
Camas, WA 98607
dba **DREAM ON SALOON**
15920 SE Stark St
Portland, OR 97233

(Application for Full-On
Premises Sales License)

OAR 845-005-0355 states, in pertinent part:

- (1) The Commission may restrict a license or service permit when:
 - (a) In the absence of a restriction, the Commission has a basis to cancel, suspend/fine or deny the license ...;
 - (b) The Commission determines that a restriction is in the public interest or convenience
- (2) In determining public interest or convenience reasons to restrict a license ..., the Commission considers factors that include but are not limited to:
 - (a) The character or environment of the neighborhood in which the licensed premises operate;
 - (b) The need to eliminate or prevent conditions that have contributed to or that the Commission reasonably believes will contribute to liquor or criminal law violations by the licensee, patrons of the licensed or the public

Commission staff proposed to issue the requested Full On-Premises Sales license with the following restrictions:

- 1. A patron may possess no more than one container of alcohol at one time and a container of alcohol will contain no more than 16 ounces of malt beverage, 16 ounces of cider, 6 ounces of wine, or 2 ounces of distilled spirits.
- 2. The sale and service of alcohol is prohibited from 1:00 am to 7:00 am every day. Patron possession and consumption of alcohol is prohibited from 1:30 am to 7:00 am every day.²

Note: Licensee was issued a Notice of Proposed License Restrictions, dated August 18, 2020. Licensee accepts the imposition of the listed restriction and wishes to dispose of this licensing matter by settlement.

² At the time of this Notice, licensed premises are subject to more restrictive closing times as ordered by the Governor and Oregon Health Authority to protect public health and safety in a time of pandemic. Nothing in these restrictions is intended to alter or amend COVID-related protective measures ordered by other state authorities.

(continue **DREAM ON SALOON**)

3. Patron entry and re-entry into the premises is prohibited from 1:00 am to 7:00 am on Saturdays and Sundays.
4. When the premises is open to the public after 10:00 pm Sunday through Thursday, at least one DPSST-certified staff member will be on-duty and on the premises from 10:00 pm to the close of business. Individuals acting in this role will not be allowed to mix, sell, or serve alcoholic beverages and must wear an outer garment that clearly displays the word "security" in a readable size and font on the person's chest and back.
5. When the premises is open to the public after 10:00 pm on Friday and Saturday, at least two DPSST-certified staff members will be on-duty and on the premises from 10:00 pm to the close of business.
6. When the premises is open to the public after 10:00 pm on Friday and Saturday, licensee will ensure that the areas adjacent to or outside the premises, including the parking lot, are patrolled at least every 20 minutes by at least one DPSST-certified security person to discourage loitering and illegal activity. Licensee will ensure that any violent or illegal activity observed within or outside the premises is immediately reported to the Portland Police Bureau.
7. Licensee will maintain a security video surveillance system with digital video recording capabilities sufficient to capture clear and specific legible video of all areas controlled by the licensee, including the outdoor areas adjacent to the licensed building and the licensed patio. Licensee will maintain a copy of the surveillance footage for a minimum of 30 days and will make the video surveillance footage available and unaltered, upon request to any OLCC Inspector or law enforcement officer.

SYNOPSIS: This is an application for a full on-premises sales license. Commission staff has determined that a restricted license is in the public interest because serious incidents occurred just outside the proposed licensed premises while it was under the control of a prior licensee; two other premises located near the proposed licensed premises faced OLCC action within the last three years due to serious and persistent problems; and the applicant lacks experience owning or managing a liquor-licensed premises. It was determined that granting the license with the proposed restrictions was appropriate.

(continue **DREAM ON SALOON**)

TERMS OF AGREEMENT

1. The Commission will issue Applicant a Full On-Premises Sales license with the listed restrictions for the above location after this agreement is ratified and after Staff determine that the application is complete.
2. Applicant accepts the imposition of the listed restrictions on the license identified in this agreement without any conditions or reservations.
3. Applicant waives any and all rights to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183), to judicial review, and to otherwise challenge this agreement or the Final Order resulting from it.
4. This agreement is conditioned on final approval by the Oregon Liquor Control Commission and will be reviewed by the Commissioners at a commission meeting. If the Commission does not accept and approve this agreement in its entirety, it is deemed null and void, and Applicant's hearing rights, if any, will be restored. If the Commission accepts and approves this agreement in its entirety, Applicant withdraws any request for hearing.