OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
PROPOSED AMENDMENTS

Forms Required for License Applications

Application for New License or Change in Ownership License

ORS 471.311 requires the Commission to charge an application fee to process an application for a new license application or a license following a change in ownership. This rule describes the application process for these license actions.

(1) Definitions. For this rule:

(a) “Annual license” means licenses issued under ORS 471.175, 471.178, 471.186, 471.200, 471.221, 471.223, 471.227, 471.230, 471.235, and 471.242.

(b) “Application fee” means a nonrefundable fee for each class of annual license for which the applicant has applied. The fee is equal to the annual license fee as described in ORS 471.311 but no more than $150 per license.

(c) “Application for a change in ownership license” means an application for an annual license:

(A) At an address with a current liquor license;
(B) The application is for an annual license of a type currently issued to that address;
(C) All applicants are different from the current licensee or licensees of record; and
(D) If the application is approved by the Commission, the current licensee or licensees of record will no longer be a licensee of record at the address.

(d) “Application for a new license” means an application for an annual license:

(A) At an address that does not have a current liquor license;
(B) By a licensee for an additional or different class of liquor license at an address where the licensee holds a current license;
(C) By a licensee to add one or more co-licensees to a license at that address; or
(D) By a new applicant for a new license at an address with a current license and the current licensee will remain as a licensee at that address.
(f) “Initially completed application” means the Commission determined that an application for a change in ownership license or an application for a new license contained all of the forms, documents, information, and fees required by the Commission and the Commission determined that all of the forms, documents, information, and fees were complete, accurate, legible, and correct.

(g) “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.

(h) “Legible” means the form, document, or other information is in the English language and has been typed, printed, or drawn in a manner that is easily readable by Commission staff.

(i) “Propose that the license be granted, granted with restrictions, or refused” or “proposed licensing decision” means the Commission’s Administrator or designee has provided written or electronic notification to the applicant that it proposes the license be granted, granted with restrictions on the license, or refused.

(2) An applicant for an annual license that is a new license or change in ownership license must submit an application to the Commission. The application must contain the forms, documents, information, and fees required by the Commission to accept an application and the forms, documents, information, and fees must be complete, accurate, legible, and correct. The forms, documents, information, and fees required by the Commission to accept an application are:

(a) Liquor License Application form.
(b) Individual History form. All persons identified in (6) of this rule are required to submit this form.
(c) Entity questionnaire. All entities as identified in (7) of this rule are required to submit this form.
(d) Business Information form.
(e) Proof that the applicant provided written notice to the local government per OAR 845-005-0304(3) or proof that the applicant is not required to submit the application to the local government.
(f) Proof that the applicant has, or will have, access to the real property at the address of the proposed licensed premises.
(g) The nonrefundable application fee for each class of license for which the applicant has applied.

(3) The Commission may:
(a) Refuse to accept an application that does not contain all of the forms, documents, information, and fees required by the Commission or the forms, documents, information, and fee amount are not complete, accurate, legible, and correct; or

(b) Determine that an application is an initially completed application, and if such a determination is made, the Commission will provide written or electronic notification to the applicant of the date of the initially completed application.

(4) After the initially completed application date, the Commission may request additional forms, documents, information, and fees necessary for the Commission to make a proposed licensing decision. The applicant must continue to maintain the application as complete by providing to the Commission all forms, documents, information, and fees required by the Commission and the forms, documents, information, and fees must be complete, accurate, legible, and correct. An applicant fails to maintain a completed application if:

(a) After the initially completed application date, the Commission provides written or electronic notice to the applicant that the applicant must provide additional forms, documents, information, or fees to the Commission and the Commission does not receive the requested forms, documents, information, or fees that are complete, accurate, legible, and correct within 10 calendar days of the notice.

(A) If after the 10 calendar days, but no more than a total of 30 calendar days after the notice, the applicant does not provide the requested forms, documents, information, or fees to the Commission that are complete, accurate, legible, and correct the Commission will refuse to process the application and the applicant will not be entitled to receive a refund of the application fee; or

(B) If after the 10 calendar days, but within a total of 30 calendar days after the notice, the applicant does provide the requested forms, documents, information, or fees to the Commission that are complete, accurate, legible, and correct the Commission will process the application; however, the applicant will not be entitled to receive a refund of the application fee.

(b) After the initially completed application date, the Commission receives notice that the funds for the application fee are unavailable to the Commission, such as by non-sufficient funds (NSF) or a stop payment on a check. The Commission provides written or electronic notice to the applicant that the funds were unavailable.

(A) If the applicant does not pay the application fee in cash or by money order within 10 calendar days of the notice the Commission will refuse to process the application; or
(B) If the applicant pays the application fee in cash or by money order within 10 calendar days of the notice the Commission will process the application; however, the applicant will not be entitled to receive a refund of the application fee.

(5) All application fees assessed under this rule are nonrefundable, except that the Commission:

(a) Shall refund the fee if the applicant maintained a completed application and the Commission did not, on or before 75 days following the date of the initially completed application, issue the license or issue a proposed licensing decision; or

(b) May apply the fee to the license fee if the applicant maintained a completed application and after the 75 days following the date of the initially completed application the Commission proposes to grant the license or grant the license with restrictions.

(6) Individual History form.

(a) When the applicant is an individual, the individual must submit this form.

(b) When the applicant is an entity:

(A) If the entity provides proof it is listed on an exchange registered with the U.S. Securities and Exchange Commission, no person needs to submit this form.

(B) If the entity is not listed, or cannot provide proof that it is listed, on an exchange registered with the U.S. Securities and Exchange Commission, all natural persons defined as an applicant or licensee per OAR 845-006-0301 must submit this form.

(7) Entity Questionnaire.

(a) All entity applicants must submit this form.

(b) An entity that owns 10% or greater of the entity applicant and is not listed, or cannot provide proof that it is listed, on an exchange registered with the U.S. Securities and Exchange Commission must also submit this form.

(8) Nothing in this rule prohibits the Commission from withdrawing a proposed licensing decision if the Commission receives information that would alter its proposal that a license be granted, granted with restrictions, or refused.
(9) After accepting an application as initially complete, if the applicant fails to maintain a completed application, the Commission may refuse to process the application per OAR 845-005-0315 and the application fee is nonrefundable.

(10) After an application is accepted as initially complete, the applicant may provide written or electronic notice to the Commission that it is withdrawing the application. The application fee is nonrefundable if the applicant withdraws the application.

(11) Nothing in this rule prevents the Commission from requiring additional forms, documents, or information from the applicant or from other persons where there is reason to believe that the forms, documents, or information may help the Commission determine the merits of a license application or to otherwise perform its statutory duties.

(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.

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845-005-0314

Refusal to Accept an Application

Application or Request for a License Action that is not a License Renewal and the License Action is for other than a New License or Change in Ownership License

(1) An application or request submitted to the Commission for a license action that is not a license renewal and is for other than a new license or change in ownership license must contain all forms, documents, information, and fees required by the Commission and the forms, documents, information, and fees must be complete, accurate, legible, and correct.

(2) The Commission may refuse to accept an application or request that does not contain all of the forms, documents, information, and fees required by the
Commission or the forms, documents, information, and fee amount are not complete, accurate, legible, and correct.

(3) The Commission may refuse to process an application or request if the applicant neglects or refuses to provide in a timely manner any form, document, information, or fee requested by the Commission.

(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.