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OREGON LIQUOR CONTROL COMMISSION

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FILING CAPTION: Licensee requirements to expand into areas that do or do not abut the licensed premises.

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RULES:

845-005-0329, 845-005-0331, 845-006-0309

AMEND: 845-005-0329

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

NOTICE FILED DATE: 10/30/2020

RULE SUMMARY: This rule has been updated to outline licensing requirements for outdoor areas not abutting a licensed premises.

RULE TEXT:

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

(2) The Commission shall refuse to license an outdoor area, and may cancel the license for an outdoor area, for any of the following reasons:

- (a) The outdoor area is controlled by a public entity and the public entity provides the Commission with written proof that the sale, service or consumption of alcohol in the outdoor area is not an authorized use under the applicable rules and regulations governing the public entity;
- (b) The outdoor area is privately owned and the applicant or licensee fails to provide, as required by the Commission or upon request by the Commission, written proof of legal access to the outdoor area;
- (c) The applicant or licensee fails to define the boundaries of the outdoor area;
- (d) The applicant or licensee fails to demonstrate there is or will be adequate supervision of the outdoor area so as to prevent violations of the liquor laws.

(3) Non-abutting limited duration or intermittent expansion of licensed premises.

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

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

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

(b) A licensee may expand its premises on a limited duration or intermittent basis to one area that does not abut the licensee's annually licensed premises to sell and serve alcohol at retail as allowed by the license provided the following are met:

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

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

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

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

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

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

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

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

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

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

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

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

(h) Operation in an expansion area not abutting the licensed premises without permission from the landowner is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.040, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.313, 471.315

AMEND: 845-005-0331

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

NOTICE FILED DATE: 10/30/2020

RULE SUMMARY: This rule outlines the licensing requirements for outdoor areas abutting a licensed premises.

RULE TEXT:

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

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

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

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

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

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

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

(3) Abutting limited duration or intermittent expansion of licensed premises.

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

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

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

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

(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.

STATUTORY/OTHER AUTHORITY: ORS 471, 471.040, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.001, 471.030, 471.159, 471.313, 471.315

AMEND: 845-006-0309

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

NOTICE FILED DATE: 10/30/2020

RULE SUMMARY: This rule sets out the requirements for outdoor areas alcohol consumption areas that do not abut a licensed premises.

RULE TEXT:

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

(2) One patron shall not possess more than two open containers of alcohol at the same time in the outdoor area, and the amount of alcohol in each container shall not exceed 16 ounces of malt beverages, 6 ounces of wine, 16 ounces of cider or 2 ounces of distilled spirits except under the following circumstances:

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

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 471, 471.040, 471.730

STATUTES/OTHER IMPLEMENTED: ORS 471.030, 471.315