

OREGON LIQUOR CONTROL COMMISSION
CHAPTER 845
OUTDOOR AREAS PACKAGE
PROPOSED RULES AND AMENDMENTS – *Final Staff Draft Revised*

Note: = new text; = deleted text

845-005-0329

Licensing Outdoor Areas Not Abutting a Licensed Building

(1) This rule applies to an outdoor area that does not abut applicant's or licensee's building or other similarly enclosed structure. This rule establishes the licensing qualifications for such an outdoor area. This rule does not apply to Temporary Sales Licenses issued under ORS 471.190; Special Events Brewery-Public House licenses issued under 471.200; Special Event Winery licenses issued under 471.223; Special Events Grower licenses issued under 471.227; Special Events Distillery licenses issued under 471.230; Small-Scale Private Catering licenses issued under OAR 845-005-0405; and Temporary Use of An Annual License licenses issued under OAR 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 the Commission with written proof of legal access to the outdoor area.

(c) The outdoor area is privately owned and the applicant or licensee fails to provide the Commission with written proof that the property owner expressly allows the sale, service and consumption of alcohol in the outdoor area.

(d) The outdoor area fails to qualify for a Number III minor posting.

(e) The applicant or licensee fails to define the boundaries of the outdoor area and the applicant or licensee fails to demonstrate how it will or does adequately control those boundaries.

(f) The applicant or licensee fails to identify and obtain Commission approval of a designated area for alcohol consumption within the outdoor

area and the applicant or licensee fails to confine the designated area with a physical barrier.

(g) 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.

Stat. Auth.: ORS 471, including 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.030(1), 471.313(1), & 471.315(1)(d)

845-005-0331

Licensing ~~Exterior~~ Outdoor Areas Abutting a Licensed Building

(1) This rule applies to an outdoor area that abuts applicant's or licensee's building or other similarly enclosed structure. This rule establishes the licensing qualifications for such an outdoor area. This rule does not apply to Temporary Sales Licenses issued under ORS 471.190; Special Events Brewery-Public House licenses issued under 471.200; Special Event Winery licenses issued under 471.223; Special Events Grower licenses issued under 471.227; Special Events Distillery licenses issued under 471.230; Small-Scale Private Catering licenses issued under OAR 845-005-0405; and Temporary Use of An Annual License licenses issued under OAR 845-005-0410.

~~(1)(2) The Commission shall refuse to license an exterior outdoor area, and may revoke its approval of an outdoor area, previously licensed, for any of the following reasons listed in this rule unless the applicant or licensee shows good cause that outweighs the refusal or revocation basis. The following sections state the refusal reasons that apply to exterior areas.~~

~~(2)(a) The applicant or licensee requests licensing of an outdoor area is controlled by the local governing body, and the local governing body has not approved, or withdraws its approval of, the use proposed by the applicant or licensee 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 the Commission with written proof of legal access to the outdoor area.

(c) The outdoor area is privately owned and the applicant or licensee fails to provide the Commission with written proof that the property owner

expressly allows the sale, service and consumption of alcohol in the outdoor area.

~~(3)(d) The exterior **outdoor** area proposed to be licensed is~~ **does not adjacent to** ~~abut~~ **the applicant's proposed licensed building or the licensee's existing or the applicant's proposed licensed premises** **existing licensed building.**

(e) The applicant or licensee fails to define the boundaries of the outdoor area and the applicant or licensee fails to demonstrate how it will or does adequately control those boundaries.

~~(4)(f) 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.

~~(5)(g) The applicant or licensee will allow~~ **amplified** entertainment in the exterior **outdoor** area between 12:00 a.m. and 7:00 a.m.

Stat. Auth.: ORS 471, including ~~471.030~~, 471.040, 471.730(1) & (5)
Stats. Implemented: ORS **471.001, 471.030(1), 471.159, 471.313(1) & 471.315(1)(d)**

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 building or other similarly enclosed structure. This rule establishes the requirements for such an outdoor area. This rule does not apply to Temporary Sales Licenses issued under ORS 471.190; Special Events Brewery-Public House licenses issued under 471.200; Special Event Winery licenses issued under 471.223; Special Events Grower licenses issued under 471.227; Special Events Distillery licenses issued under 471.230; Small-Scale Private Catering licenses issued under OAR 845-005-0405; and Temporary Use of An Annual License licenses issued under OAR 845-005-0410.

(2) A patron in the outdoor area shall not possess more than two containers of alcohol at the same time. Violation of this section is a Category V violation.

(3) The amount of alcohol in a container possessed by a patron in the outdoor area shall not exceed 16 ounces of malt beverage, 6 ounces of wine, 16 ounces of cider or 2 ounces of distilled spirits. Violation of this section is a Category V violation.

(4) The outdoor area must meet the requirements for a Number III minor posting. Violation of this section is a Category III violation

(5) No patron shall bring alcohol into or remove alcohol from the approved, designated alcohol consumption area. Violation of this section is a Category V violation.

(6) 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.

(7) The sale, service and consumption of alcoholic beverages in the outdoor area is not allowed from 10:00 p.m. to 7:00 a.m. on the succeeding calendar day. Violation of this section is a Category III Violation.

(8) The licensee must maintain and adequately control the defined boundaries of the outdoor area and the approved, designated alcohol consumption area so as to prevent violations of the liquor laws. Violation of this section is a Category V violation.

Stat. Auth.: ORS 471, including 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.030(1) & 471.315(1)(d)

845-006-0310

Requirements for Outdoor Areas Abutting a Licensed Building

(1) This rule applies to an outdoor area that abuts applicant's or licensee's building or other similarly enclosed structure. This rule establishes the requirements for such an outdoor area. This rule does not apply to Temporary Sales Licenses issued under ORS 471.190; Special Events Brewery-Public House licenses issued under 471.200; Special Event Winery licenses issued under 471.223; Special Events Grower licenses issued under 471.227; Special Events Distillery licenses issued under 471.230; Small-Scale Private Catering licenses issued under OAR 845-005-0405; and Temporary Use of An Annual License licenses issued under OAR 845-005-0410. This rule does not apply to an outdoor area with a capacity of at least 500 persons

(2) If the outdoor area abuts a property zoned for residential use, 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.

(3) If the outdoor area abuts a property zoned for residential use, the sale, service and consumption of alcoholic beverages in the outdoor area is not allowed during the following times:

(a) On Saturday and Sunday from 1:00 a.m. to 7:00 a.m. Violation of this section is a Category III violation.

(b) On Sunday through Thursday from 11:00 p.m. to 7:00 a.m. on the succeeding calendar day. Violation of this section is a Category III violation.

(4) The licensee must maintain and adequately control the defined boundaries of the outdoor area so as to prevent violations of the liquor laws. Violation of this section is a Category V violation.

Stat. Auth.: ORS 471, including 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.030(1) & 471.315(1)(d)