

Council Study Session

July 2, 2018

Title:	Oregon Liquor License Control Commission (OLCC)- Local Liquor License Approval Process	
Item Type:	Presentation	
Requested by Council?	Yes	
From:	Melissa Huhtala	City Recorder
	Melissa.huhtala@ashland.or.us	

Discussion Questions:

OLCC's role in the Liquor License process and the City of Ashland's role in the Liquor License process.

Resource Requirements:

N/A

Suggested Next Steps:

N/A

Policies, Plans and Goals Supported:

AMC Chapter 6.32 Liquor License Review.

Background and Additional Information:

The City Council has asked for a report on the role of the Council regarding the approval or denial of Liquor Licenses. The Council also asked for information regarding the process on revoking a Liquor License if there are ongoing issues at an establishment.

Attachments:

OLCC Report



OREGON LIQUOR CONTROL COMMISSION
PRESENTATION TO THE CITY OF ASHLAND
July 2, 2018

Introduction

We appreciate your serious review of liquor licensing issues. We value your opinion and will continue to take it seriously in making licensing decisions.

The intention of this document is to give a brief introduction to the liquor license process, share answers to some common questions, and open a conversation on the issues that are important to you.

OLCC's Role in the Liquor License Process

- The OLCC has sole authority to grant and refuse liquor licenses. See ORS 471.045.
- The OLCC is required to grant a liquor license unless there is a basis to refuse it. See ORS 471.313.
- The standards upon which the OLCC may refuse a liquor license are in Oregon Revised Statutes (ORS 471.313) and Oregon Administrative Rules (OAR 845, Division 5). The OLCC must follow these standards to refuse a liquor license.

City of Ashland's Role in the Liquor License Process

- The City of Ashland is authorized to make a recommendation to the OLCC on a liquor license application before the OLCC makes a decision on the license. See ORS 471.166.
 - The City may charge a fee to process an application. See ORS 471.166 (7) and (8).
 - For an initial license the City has up to 45 days in which to provide a recommendation or ask the OLCC for an extension. See ORS 471.166 (2) and OAR 845-005-0304 (5).
 - For a renewing license the City has up to 60 days in which to provide a recommendation or ask the OLCC for an extension. The OLCC license year for the liquor licenses within the city limits of Ashland is October 1 to September 30. The OLCC will mail a notification to the City around the end of July; the notification will include a list of OLCC licensees within the city limits of Ashland. See ORS 471.166 (3) and OAR 845-005-0304 (6).
- In order for the OLCC to consider an unfavorable recommendation by the City of Ashland, the basis for City's recommendation must be within the same standards that the OLCC must follow. Those are 471.313 and OAR 845, Division 5. See OAR 845-005-0308.



OREGON LIQUOR CONTROL COMMISSION
PRESENTATION TO THE CITY OF ASHLAND
July 2, 2018

COMMON QUESTIONS

1. May the OLCC refuse a liquor license based on saturation?

In 1973 the Oregon Court of Appeals held that the OLCC may not refuse a liquor license based on the number of already licensed premises in the area without first adopting rules that define the standards for license denial on this basis. The OLCC has not developed any rules related to the number of licensed premises in a given area.

2. May the OLCC refuse a liquor license based on issues that are not included in ORS 471.313 or Oregon Administrative Rules OAR 845, Division 5?

The OLCC may not refuse a liquor license based on issues that are not included in ORS 471.313 or Oregon Administrative Rules OAR 845, Division 5. The common issues not included (and so the OLCC may not refuse a liquor license based on these issues) are such things as parking, lighting, traffic congestion, traffic noise, homelessness, noncompliance with zoning, litter in the area, and nonpayment of property taxes.

3. May the OLCC refuse a liquor license based exclusively on the fact that the address of the proposed premises is within a certain proximity of a school?

The OLCC is not allowed to refuse a liquor license based exclusively on the fact that the address of the proposed premises is within a certain proximity of a school.

However, OAR 845-005-0326(2) does provide a liquor license refusal basis if both of the following factors are present:

- If the address of the proposed premises is within the city limits and within 500 feet of a school; **AND**
- The licensed premises will adversely impact the school.

“Adverse impact” requires a showing that the operation of the licensed premises will interfere or conflict with the specialized activities of the facility. The burden is on the claimant to communicate specifically what the projected harm or impact will be to the facility and how it will occur. Objections to licensed businesses in general or alcohol consumption in general are not sufficient to show adverse impact.

The adverse impact must be related to the operation of the license privilege (the sale and service of alcohol), not the general impact of any commercial business. A claim of negative economic impact doesn’t count as adverse impact under this rule. Objections based on the type of entertainment offered by the proposed premises do not establish adverse impact.



OREGON LIQUOR CONTROL COMMISSION
PRESENTATION TO THE CITY OF ASHLAND
July 2, 2018

4. May the OLCC restrict the sale of alcoholic beverages associated with street drinkers?

“Street drinkers” means people who drink unlawfully in street, alleys, parks, and other similar public places.

The OLCC may place a restriction on the license if **all** of the following factors are present:

- The license privilege allows “to-go” sales of beer, wine, or cider; **and**
- Within the past 12 months in the area within 500 feet of the premises there have been at least 50 incidents documented by a police report of unlawful drinking of alcohol in public, disorderly conduct, minor in possession of alcohol, or furnishing alcohol to a minor.

If all of the factors are present, the OLCC may place these three restrictions on the license:

1. Licensee may not sell or offer for sale any malt beverages containing more than 6% alcohol by volume.
2. Licensee may not sell or offer for sale any wine containing more than 13.8% alcohol by volume.
3. Licensee may not sell or offer for sale any malt beverages in single containers.

5. What is the process when the City has concerns about a business with a liquor license?

We are interested in your concerns. You may work with us any time of year; there is no need to wait until the license renewal period. It’s best to work with the local OLCC office in Medford.

Oregon statutes and rules authorize the OLCC to take action on issues related to OLCC regulations. Here is a list of the issues typically of interest to a city:

- Sale of alcohol to a minor or to a visibly intoxicated person.
- Permitting disorder or unlawful activity.
- Serious and persistent problems either in the business or involving patrons in the immediate vicinity of the business. The problems in the immediate vicinity of the business must involve patrons of the business and the problems must be related to



OREGON LIQUOR CONTROL COMMISSION
PRESENTATION TO THE CITY OF ASHLAND
July 2, 2018

the sale and service of alcohol under the license privilege. Examples of common problems are:

- Fights, assaults, altercations, harassment.
- Over-service of alcohol.
- Unlawful drug activity in the business.
- Excessive noise, music, or sound vibrations. As per ORS 471.329:

(a) Noise from the inside of a licensed premises located within the boundaries of a city or county that has an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise violates the ordinance;

(b) Noise caused by patrons outside a licensed premises located within the boundaries of a city or county that has an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise violates the ordinance or if the noise is of a type that a reasonable person would not expect to hear outside a premises licensed for the sale of alcoholic beverages; and

(c) Noise caused by patrons inside or outside a licensed premises located within the boundaries of a city or county that does not have an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise is of the type that a reasonable person would not expect to hear inside or outside a premises licensed for the sale of alcoholic beverages.