



**Agenda for the Meeting of Brentwood Beer Board
Monday, August 12, 2019 following City Commission meeting at 7:00 pm
Brentwood City Hall**

Call to Order by Mayor
Roll Call

Approval of Minutes

July 22, 2019

New Business

1. Beer Law Violation Hearing - City Cafe, 330 Franklin Rd, Ste 250B
2. Beer Law Violation Hearing - Le Skewer, 330 Franklin Rd, Ste 904D
3. Beer Law Violation Hearing - Ludlow & Prime, 330 Franklin Rd, Ste 226B
4. Beer Law Violation Hearing - Pei Wei Asian Diner, LLC, 101 Creekside Crossing, Ste 1800
5. Beer Law Violation Hearing - Twin Peaks, 1634 Galleria Blvd
6. Other new business

Kirk Bednar
City Manager

Anyone requesting accommodations due to disabilities should contact Mike Worsham, A.D.A. Coordinator, at 371-0060, before the meeting.

Brentwood Beer Board Agenda

Meeting Date: 08/12/2019

Submitted by: Holly Earls, Administration

Department: Administration

Information

Subject

Approval or correction of minutes from the July 22, 2019 meeting

Background

Staff recommendation

Attachments

Draft Minutes

DRAFT

MINUTES OF MEETING OF BRENTWOOD BEER BOARD

BRENTWOOD, TENNESSEE

The Brentwood Beer Board met on Monday, July 22, 2019 at 8:00 pm at Brentwood City Hall.

Present: Mayor Rhea Little; Vice Mayor Ken Travis; Commissioner Nelson Andrews; Commissioner Anne Dunn; Commissioner Mark Gorman; Commissioner Susannah Macmillan; Commissioner Regina Smithson

Staff Present: City Manager Kirk Bednar; Assistant City Manager Jay Evans; City Attorney Kristen Corn; City Recorder Holly Earls

Approval of Minutes

June 10, 2019

Moved by Commissioner Regina Smithson for approval of the minutes as written, seconded by Commissioner Susannah Macmillan

Vote: 7 - 0 Approved - Unanimously

New Business

Request from Serve It Up Nashville, LLC for off premises beer permit at Brentwood Market, 925 Franklin Road (new business)

Moved by Commissioner Mark Gorman for approval, seconded by Vice Mayor Ken Travis

Vote: 7 - 0 Approved - Unanimously

Beer Law Violation Hearing - Brick's Cafe & Bistro, LLC, 330 Franklin Road, Ste 913

Moved by Commissioner Anne Dunn to suspend the beer permit for a period of thirty (30) days, effective September 3, 2019, with signs to be posted in the business stating that beer was sold to a minor, seconded by Commissioner Regina Smithson

Moved by Vice Mayor Ken Travis to amend the motion to suspend the beer permit for a period of thirty (30) days, effective August 1, 2019, with signs to be posted in the business stating that beer was sold to a minor, seconded by Commissioner Regina Smithson

The motion to amend passed.

Vote: 7 - 0 Approved - Unanimously

The main motion as amended passed.

Vote: 7 - 0 Approved - Unanimously

Beer Law Violation Hearing - Chili's Grill & Bar, 107 Creekside Crossing

Moved by Commissioner Mark Gorman to suspend the beer permit for a period of seven (7) days with signs to be posted in the business stating that beer was sold to a minor, seconded by Mayor Rhea Little

Moved by Vice Mayor Ken Travis to amend the motion to suspend the beer permit for a period of seven (7) days, effective August 1, 2019, with signs to be posted in the business stating that beer was sold to a minor, seconded by Commissioner Regina Smithson

The motion to amend passed.

Vote: 7 - 0 Approved - Unanimously

The main motion as amended passed.

Vote: 7 - 0 Approved - Unanimously

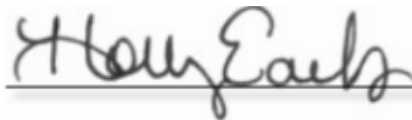
Beer Law Violation Hearing - Local Taco, 146 Pewitt Drive

Moved by Vice Mayor Ken Travis to suspend the beer permit for a period of thirty (30) days, effective August 1, 2019, with signs to be posted in the business stating that beer was sold to a minor, seconded by Commissioner Regina Smithson

Vote: 7 - 0 Approved - Unanimously

With no further business, the meeting adjourned at 9:02 pm.

APPROVED _____

A handwritten signature in dark ink, appearing to read "Holly Earls", written over a horizontal line.

Holly Earls, City Recorder

Brentwood Beer Board Agenda

Meeting Date: 08/12/2019

Submitted by: Holly Earls, Administration

Department: Administration

Information

Subject

Beer Law Violation Hearing - City Cafe, 330 Franklin Rd, Ste 250B

Background

In an operation carried out by the Tennessee Alcoholic Beverage Commission, an underage informant purchased beer at City Cafe on April 4, 2019. The Brentwood Beer Board is empowered to take action against the restaurant for violating Tennessee law and/or the Brentwood Municipal Code.

A summons (copy attached) was served on the manager of City Cafe on May 20, 2019, requiring an appearance before the Beer Board on August 12, 2019 at 7:00 p.m. following the City Commission meeting. A suggested procedural format used in previous Beer Board proceedings is also attached. A questionnaire was received from the permit holder indicating that the permit holder does not wish to contest the charges. It also includes documentation showing measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences.

Since City Cafe is not contesting the charges, there is no need for an evidentiary hearing in this matter. To supplement the documentation provided to the City, representatives may also make statements to the Beer Board at the August 12 hearing. At the conclusion of the hearing, the Beer Board will then discuss and vote upon the appropriate penalty, if any, to be imposed.

For the sale of beer to a minor at this location, the Beer Board may suspend the beer permit. (If a permit holder has committed at least two violations within a 12-month period, the Beer Board may permanently revoke the beer permit. That is not the case in this matter.) At the time a suspension or revocation is imposed, state law authorizes the Beer Board to offer the permit holder the alternative of paying a civil penalty in lieu of the suspension or revocation. For the offense of selling beer to a minor, the civil penalty may not exceed \$2,500. If a civil penalty is offered as an alternative, a permit holder must pay the penalty within seven days; otherwise, the suspension or revocation will go into effect.

In 2002, the Beer Board adopted guidelines for penalties to be imposed when beer permit holders violate the beer laws. Those guidelines are also attached. The guidelines are

intended to provide for consistency in the way beer law violations are handled, although the Beer Board has discretion to impose penalties other than those outlined in the guidelines.

Finally, when the sale of beer for on-premises consumption results in a suspension or revocation by a local beer board, state law requires that notification of the beer board's action be sent by certified mail to the Tennessee Alcoholic Beverage Commission (ABC). The ABC may then take further action against the permit holder.

Please contact the City Attorney if you have questions about this matter.

Staff recommendation

Attachments

Hearing Format
Summons & Regulatory Citation
Penalty Guidelines
Beer Violations History
Questionnaire

BRENTWOOD BEER BOARD
August 12, 2019
Case No. BBB-2019-04
Violation Hearing - Procedural Format
City Cafe, 330 Franklin Rd, Ste 250B

1. Chairman calls case number and permit holder's name: *Case No. BBB-2019-04, City Cafe.*
2. Chairman asks permit holder's representative to step forward and identify him/herself.
3. Chairman reads the charges against the permit holder: *The Chief of Police and the City Manager of the City of Brentwood have brought the following charges: On the 4th day of April, 2019, your employee or agent, F. Michelle Austin, unlawfully sold beer to a person under the age of 21 years at City Cafe, located at 330 Franklin Rd, Ste 250B.*
4. Chairman states: *In documents filed with the Beer Board, City Cafe has indicated that it does not wish to contest the charges brought against it. We have also received documentation of measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences. Do you have any further statements you wish to make to the Beer Board that related to this matter?*
5. Following the representative's statement (if any) the chairman and other members of the Beer Board (upon being recognized by the chairman) may ask questions of the representative.
6. Following questions and discussion by the Beer Board members, any member may move to impose a penalty (or that no penalty be imposed.) The penalty may be based on the penalty guidelines adopted by the Beer Board, or it may deviate from the guidelines at the Beer Board's discretion. A motion to suspend or revoke a permit should state the date on which the suspension or revocation is to be effective. Upon a second to the motion and any further discussion, a vote is taken on the motion. The motion passes if a majority of the board members present and voting vote for the motion.

**BEFORE THE BEER BOARD FOR THE CITY OF BRENTWOOD, TENNESSEE
NOTICE OF HEARING ON BEER LAW VIOLATIONS**

FRANK REEVES

TO: ~~John Bailey~~ (or current manager)
City Cafe
330 Franklin Rd, Ste 250B
Brentwood, TN 37027

Case No. BBB-2019-04

You are hereby summoned to appear before the Beer Board for the City of Brentwood, Tennessee on **August 12, 2019 at 7:00 p.m. following the City Commission meeting**, at Brentwood City Hall, 5211 Maryland Way, 2nd Floor Commission Chambers, Brentwood, Tennessee to then and there show cause, if any you have, why the beer permit of City Cafe at 330 Franklin Rd, Ste 250B, Brentwood, Tennessee, should not be suspended or why other disciplinary action should not be taken by said Beer Board for the following reasons, to wit:

On the 4th day of April, 2019, your employee or agent, F. Michelle Austin, unlawfully sold beer to a person under the age of twenty-one (21) years at City Cafe at 330 Franklin Rd, Ste 250B, within the corporate limits of the City of Brentwood, Tennessee, contrary to T.C.A. §57-5-301(a). Such unlawful sale of beer constitutes grounds for beer permit suspension under T.C.A. §57-5-108.

At the hearing referenced above, you are entitled to be represented by an attorney of your choice.

These proceedings are initiated at the request of the Chief of Police and the City Manager of the City of Brentwood, pursuant to the powers and duties assigned to them under the Charter of the City of Brentwood.



KIRK BEDNAR
City Manager




JEFF HUGHES
Chief of Police



KRISTEN L. CORN
City Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing notice has been served by hand delivery upon John Bailey (or current manager FRANK REEVES), c/o City Cafe, 330 Franklin Rd, Ste 250B, Brentwood, Tennessee 37027, on this the 20TH day of MAY, 2019.

 #1348

Brentwood Police Department

MARK STEPHENS



TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
500 James Robertson Pkwy, Davy Crockett Twr, 3rd Floor; Nashville, TN 37243-0755 PHONE: (615) 741-1602

9274



REGULATORY CITATION

THE NUMBER OF VIOLATIONS ON THIS REGULATORY CITATION IS (TOTAL)= 1 (MAX. 5)

THE UNDERSIGNED BEING DULY SWORN UPON HIS/HER OATH DEPOSES THAT:

ON THE 4 DAY OF April, 20 19

PERMITEE: City Cafe ADDRESS: 330 Franklin Road, STE. 250 B

CITY: Brentwood, TN COUNTY: Williamson ZIP: 37027 PHONE: _____

PERMIT NUMBER: _____ EXPIRATION DATE: 07/16/2019

LBDRST-WIL-180151

AFORSAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

No. of Counts

- ☒ Sale of Alcoholic Beverage/Beer to Minor-**\$1,500**
TCA§ 57-4-203(b)(1)(A) or (B); 57-3-406(d)
- ☐ Minor in Possession TCA§ 57-4-203(b)(2)(A)- **\$1,500**
- ☐ Sell/Furnishing Alcoholic Beverage to Visibly **\$1,500**
Intoxicated Person TCA§57-4-203(c)(1); 57-3-406(c)
- ☐ Failure to Properly Display Permit in a Conspicuous Place
TABC Rule #0100-1-03(17) - **\$200.00**
- ☐ Failure to Post "Pregnancy Warning" TCA§ 57-1-211 -
\$150.00
- ☐ Other _____
- ☐ Other _____

No. of Counts

- ☐ Employing Persons to Dispense Alcoholic Beverages W/O
a Permit TCA§ 57-4-203(h); 57-3-204(4)(c)-**\$150.00**
- ☐ Failure to Timely Renew TCA§57-3-605-**\$150** (Non-
Resident); 57-3-213(a)(b)-**\$350.00** (Retail), **\$150** (Winery or
Direct Shipper); 57-4-201(a)-**\$350** (LBD)—(Circle One)
- ☐ On Premises Sale By Bottle Restricted Rule #0100-1-.03(8)
TCA§57-4-203(e)(1)-**\$250.00**
- ☐ Hours of Sale Violation TCA§57-4-203(d); 57-3-406(e) Rule
#0100-1-.03(2); 0100-03-.13(4)-**\$750.00**
- ☐ Purchasing Alcoholic Beverages From Other Than A
Licensed Wholesaler TCA§57-3-404 et seq.-**\$300/bottle**
- ☐ Other _____
- ☐ Other _____

NARRATIVE: During a USTOP conducted at this establishment on 04/04/2019, server sold a Bud Light bottle to underage C.I. SA Amorese witnessed the sale. SA Amorese said ID was checked

The undersigned further states that he/she has just and reasonable grounds to believe and does believe, that the person/establishment named above committed the offense(s) herein set forth, contrary to Law and/or Rule. This 4 day of April, 20 19.

Chris H. [Signature]
SPECIAL AGENT/REGULATORY OFFICER/ISSUING PERSONNEL

NOTICE: This Regulatory Citation imposes a total civil penalty in the amount of \$ 1500⁰⁰. If you choose to settle this Regulatory Citation without contesting the alleged violation(s), you are **REQUIRED** to pay the total civil penalty amount no later than twenty (20) calendar days from the citation date listed above. If you wish to contest this Regulatory Citation and the violation(s) contained therein you may do so by contacting ABC by phone at 615-741-1602 or by mail at the following address: 500 James Robertson Pkwy, Davy Crockett Tower, 3rd Floor, Nashville, TN 37243-0755, within 20 calendar days of receipt. **This citation can only be satisfied by admitting to the violation and making payment, or by requesting a hearing by phone or mail.** Failing to satisfy this citation may result in administrative penalties and/or costs being assessed against you, including the suspension and/or revocation of your TABC permit.

I understand the above notice, and my signature below is an acknowledgement of my understanding, and not an admission of guilt.

[Signature] 4/4/19 Keimora Woods Manager
Signature of Recipient/Authorized Agent of Permittee Date Recipient's Name and Title (PRINT)

IF MAILED: Date Mailed: _____ Mailed by: Initials: _____ Printed Name: _____

ADMISSION OF GUILT:

I/we agree to settle this TABC Regulatory Citation with the admission of my/our guilt as to the violation(s) noted above and the payment of the total civil penalty imposed, as noted above, and in the amount of \$ _____ (by business check, cashier's check or money order [no personal checks or cash accepted]). Upon the plea of guilty as to the above noted violations I/we enter a plea of guilt hereby waiving any and all rights to a TABC administrative hearing and/or appeals.

Signature of Authorized Agent of Permittee or Permittee Date Authorized Agent of Permittee or Permittee's Name and Title (PRINT) 10

**BRENTWOOD BEER BOARD
PENALTY GUIDELINES
(Adopted April 22, 2002)**

The following guidelines are intended to provide standards to the Brentwood Beer Board in imposing penalties for violations of state or local beer laws and regulations in a fair, reasonable and consistent manner. These guidelines are not intended to dictate the penalty to be imposed, but rather to provide guidance to the members of the Board in their decisions. For each violation heard by the Beer Board, the Board will continue to have complete discretion to exercise any and all powers granted by state law and local ordinance. In each case, the Board may agree that a greater or lesser penalty should be imposed due to aggravating or mitigating circumstances.

In applying the penalties below, it is suggested that if no violations have occurred within the previous three years, the incident will be treated as a first violation. The “alternative” penalties set forth below would be allowed only if the Beer Board deems that the permit holder had appropriate training and/or other preventative measures in place to prevent violations of the beer laws, and that appropriate steps will be taken to prevent future violations. As a condition of the alternative penalty, the Beer Board may require the permit holder to submit documentation regarding training programs in place. It is suggested that the penalty period begin one week following the Beer Board’s decision, in order to provide time for the permit holder to comply with the conditions of the alternative penalty.

	<u>Penalty</u>	<u>Alternative</u>
First violation	<i>30 day suspension</i>	<i>One week suspension/post signs*</i>
Second violation	<i>45 day suspension</i>	<i>Two week suspension/post signs*</i>
Third violation	<i>60 day suspension</i>	<i>No alternative</i>
Fourth violation	<i>Revocation**</i>	<i>No alternative</i>

** See attached wording and specifications for sign to be posted at each entrance and on each beer cooler door.*

*** In order to impose revocation, there must be at least two violations within a 12-month period.*

Note: At the time of adoption of these guidelines, Tennessee law also provided that the Beer Board may offer a permit holder the alternative of paying a monetary penalty of up to \$1,500 for the sale of beer to a minor, or up to \$1,000 for other violations. The maximum penalty for the sale of beer to a minor was subsequently increased to \$2,500. However, the Tennessee General Assembly also created a “Responsible Vendor” program for off-premises beer permit holders. The permit of an off-premises permit holder who complies with this program may not be suspended or revoked. However, a monetary penalty not to exceed \$1,000 may be imposed on a “Responsible Vendor” for the sale of beer to a minor or any other offense.

NO BEER SALES

BEER WAS SOLD TO A MINOR
AT THIS LOCATION.
PERMIT SUSPENDED.

By order of the
City of Brentwood Beer Board.

{Above text to be printed in red lettering, with top line approximately 1 ½ inches tall; middle lines approximately 1 inch tall; and bottom line approximately 1 inch tall.}

<u>Beer Violations History by Name</u>			
<u>Name of Business</u>	<u>Address</u>	<u>Date of Violation</u>	<u>Suspension/Penalty</u>
55 South	7031 Executive Center Dr	2/27/2018	Paid \$2000 penalty
Amoco Food Shop	7112 Moores Lane	9/8/1997	30 day probation
B P Oil	7108 Moores Lane	4/23/1993	105 days
B P Oil	158 Franklin Road	5/3/1993	4 months
Brentwood Market & Deli	925 Franklin Road	5/18/1994	45 days
Brick's Café & Bistro	330 Franklin Road	2/27/2018	Paid \$2000 penalty
Brick's Café & Bistro	330 Franklin Road	4/4/2019	30 days with signs
Canyon Café	1645 Westgate Circle	8/19/1999	30 days
Chili's Grill & Bar	107 Creekside Crossing	12/28/2013	7 days with signs
Chili's Grill & Bar	107 Creekside Crossing	4/4/2019	7 days with signs
Church Street Pub (a/k/a The Pub or the Pac)	7022 Church Street	8/19/2004	6 months
City Café	330 Franklin Rd, Ste 250B	4/4/2019	TBD
Concord General Store	1101 Wilson Pike	5/18/1994	30 days
Cozymel's Coastal Grill	1654 Westgate Circle	12/28/2013	7 days with signs
Gulf Market	158 Franklin Road	2/19/1989	60 days
H. G. Hill #21	235 Franklin Road	3/15/2002	Paid \$1500 penalty
Hanabi Japanese Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Jefferson's Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Judge Bean's BBQ	7022 Church Street	12/28/2013	7 days with signs
Kroger	330 Franklin Road	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	3/8/2002	30 days (new owner)
Le Skewer	330 Franklin Rd, Ste 904D	4/4/2019	TBD
Little Bros Amoco	141 Franklin Road	3/5/1993	60 days
Little Bros Amoco	141 Franklin Road	5/18/1994	120 days
Little Bros Amoco	141 Franklin Road	3/15/2002	7 days with signs
Local Taco	146 Pewitt Drive	2/27/2018	7 days with signs
Local Taco	146 Pewitt Drive	4/4/2019	30 days with signs
Ludlow & Prime	330 Franklin Rd, Ste 226B	4/4/2019	TBD
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/18/1994	45 days

Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	8/19/1999	30 days
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/20/2016	Paid \$1000 penalty
Pei Wei Asian Diner	101 Creekside Crossing, Ste 1800	4/4/2019	TBD
Piggly Wiggly	144 Wilson Pike	5/18/1994	45 days
Shogun Steakhouse	1648 Westgate Circle	8/19/1999	30 days
Sportsman Lodge	1640 Westgate Circle	8/19/1999	30 days
Star Market	120 Franklin Road	10/19/1984	30 day probation
Star Market	120 Franklin Road	4/4/1985	30 days
Stout Burgers and Beers	400 Centerview Drive	2/27/2018	Paid \$2500 penalty
The Smokey Cigar 2	1800 Carothers Pkwy, Ste 1	5/20/2016	Paid \$1000 penalty
Twin Peaks	1634 Galleria Boulevard	4/4/2019	TBD

TO THE BRENTWOOD BEER BOARD
To be submitted in advance of violation hearing

Business name: **City Cafe**

Address: 330 Franklin Rd, Ste 250B, Brentwood, TN 37027

Does this business wish to contest the charges described in the summons?

_____ Yes ☒ No

If "no," please provide the following information (using additional pages if necessary):

- (a) Description of the employee training programs and other preventative measures designed to prevent violations of the beer laws before the violation occurred

Part of server training is going over the laws and skills needed to properly identify age and validity of the ID. Store policy is to refuse service of alcohol to anyone who doesn't have a valid ID or is underage.

- (b) Did the employee charged with selling beer to an underaged person complete all required training?

☒ Yes _____ No

- (c) Reasons the preventative measures failed, resulting in this violation

An ID was taken but the year was misread.

- (d) Any subsequent measures taken since the violation occurred to prevent future occurrences

We have an ID year verifier on the server line that we check to the proper date every day. Every server has been put through their

For off-premises permit holders only: Is this business a participant in Tennessee's Responsible Alcohol server Vendor program and compliant with the program's requirements? Alcohol server training.

_____ Yes _____ No

Submitted by:

(Print name and title) Mitchell Dodge / General Manager

Signature: 

Date: 7/22/19

Brentwood Beer Board Agenda

Meeting Date: 08/12/2019

Submitted by: Holly Earls, Administration

Department: Administration

Information

Subject

Beer Law Violation Hearing - Le Skewer, 330 Franklin Rd, Ste 904D

Background

In an operation carried out by the Tennessee Alcoholic Beverage Commission, an underage informant purchased beer at Le Skewer on April 4, 2019. The Brentwood Beer Board is empowered to take action against the restaurant for violating Tennessee law and/or the Brentwood Municipal Code.

A summons (copy attached) was served on the manager of Le Skewer on May 20, 2019, requiring an appearance before the Beer Board on August 12, 2019 at 7:00 p.m. following the City Commission meeting. A suggested procedural format used in previous Beer Board proceedings is also attached. A questionnaire was received from the permit holder indicating that the permit holder does not wish to contest the charges. It also includes documentation showing measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences.

Since Le Skewer is not contesting the charges, there is no need for an evidentiary hearing in this matter. To supplement the documentation provided to the City, representatives may also make statements to the Beer Board at the August 12 hearing. At the conclusion of the hearing, the Beer Board will then discuss and vote upon the appropriate penalty, if any, to be imposed.

For the sale of beer to a minor at this location, the Beer Board may suspend the beer permit. (If a permit holder has committed at least two violations within a 12-month period, the Beer Board may permanently revoke the beer permit. That is not the case in this matter.) At the time a suspension or revocation is imposed, state law authorizes the Beer Board to offer the permit holder the alternative of paying a civil penalty in lieu of the suspension or revocation. For the offense of selling beer to a minor, the civil penalty may not exceed \$2,500. If a civil penalty is offered as an alternative, a permit holder must pay the penalty within seven days; otherwise, the suspension or revocation will go into effect.

In 2002, the Beer Board adopted guidelines for penalties to be imposed when beer permit holders violate the beer laws. Those guidelines are also attached. The guidelines are

intended to provide for consistency in the way beer law violations are handled, although the Beer Board has discretion to impose penalties other than those outlined in the guidelines.

Finally, when the sale of beer for on-premises consumption results in a suspension or revocation by a local beer board, state law requires that notification of the beer board's action be sent by certified mail to the Tennessee Alcoholic Beverage Commission (ABC). The ABC may then take further action against the permit holder.

Please contact the City Attorney if you have questions about this matter.

Staff recommendation

Attachments

Hearing Format
Summons & Regulatory Citation
Penalty Guidelines
Beer Violations History
Questionnaire
Le Skewer Alcohol Policies

BRENTWOOD BEER BOARD
August 12, 2019
Case No. BBB-2019-05
Violation Hearing - Procedural Format
Le Skewer, 330 Franklin Rd, Ste 904D

1. Chairman calls case number and permit holder's name: *Case No. BBB-2019-05, Le Skewer.*
2. Chairman asks permit holder's representative to step forward and identify him/herself.
3. Chairman reads the charges against the permit holder: *The Chief of Police and the City Manager of the City of Brentwood have brought the following charges: On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of 21 years at Le Skewer, located at 330 Franklin Rd, Ste 904D.*
4. Chairman states: *In documents filed with the Beer Board, Le Skewer has indicated that it does not wish to contest the charges brought against it. We have also received documentation of measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences. Do you have any further statements you wish to make to the Beer Board that related to this matter?*
5. Following the representative's statement (if any) the chairman and other members of the Beer Board (upon being recognized by the chairman) may ask questions of the representative.
6. Following questions and discussion by the Beer Board members, any member may move to impose a penalty (or that no penalty be imposed.) The penalty may be based on the penalty guidelines adopted by the Beer Board, or it may deviate from the guidelines at the Beer Board's discretion. A motion to suspend or revoke a permit should state the date on which the suspension or revocation is to be effective. Upon a second to the motion and any further discussion, a vote is taken on the motion. The motion passes if a majority of the board members present and voting vote for the motion.

BEFORE THE BEER BOARD FOR THE CITY OF BRENTWOOD, TENNESSEE
NOTICE OF HEARING ON BEER LAW VIOLATIONS

TO: William Zaitz (or current manager)
Le Skewer
330 Franklin Rd, Ste 904D
Brentwood, TN 37027

Case No. BBB-2019-05

You are hereby summoned to appear before the Beer Board for the City of Brentwood, Tennessee on **August 12, 2019 at 7:00 p.m. following the City Commission meeting**, at Brentwood City Hall, 5211 Maryland Way, 2nd Floor Commission Chambers, Brentwood, Tennessee to then and there show cause, if any you have, why the beer permit of Le Skewer at 330 Franklin Rd, Ste 904D, Brentwood, Tennessee, should not be suspended or why other disciplinary action should not be taken by said Beer Board for the following reasons, to wit:

On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of twenty-one (21) years at Le Skewer at 330 Franklin Rd, Ste 904D, within the corporate limits of the City of Brentwood, Tennessee, contrary to T.C.A. §57-5-301(a). Such unlawful sale of beer constitutes grounds for beer permit suspension under T.C.A. §57-5-108.

At the hearing referenced above, you are entitled to be represented by an attorney of your choice.

These proceedings are initiated at the request of the Chief of Police and the City Manager of the City of Brentwood, pursuant to the powers and duties assigned to them under the Charter of the City of Brentwood.



KIRK BEDNAR
City Manager



JEFF HUGHES
Chief of Police



KRISTEN L. CORN
City Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing notice has been served by hand delivery upon William Zaitz (or current manager _____), c/o Le Skewer, 330 Franklin Rd, Ste 904D, Brentwood, Tennessee 37027, on this the 20th day of MAY, 2019.


#1348

Brentwood Police Department

MARK STEPHENS



TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
500 James Robertson Pkwy, Davy Crockett Twr, 3rd Floor; Nashville, TN 37243-0755 PHONE: (615) 741-1602

13056



REGULATORY CITATION

THE NUMBER OF VIOLATIONS ON THIS REGULATORY CITATION IS (TOTAL)= 1 (MAX. 5)

THE UNDERSIGNED BEING DULY SWORN UPON HIS/HER OATH DEPOSES THAT:

ON THE 4th DAY OF April, 2019

PERMITEE: Le Skewer ADDRESS: 330 FRANKLIN Rd STE 904D

CITY: Brentwood, TN COUNTY: Williamson ZIP: 37027 PHONE: _____

PERMIT NUMBER: UBDRST- EXPIRATION DATE: 10-31-19

WIL-1801500 AFORESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

No. of Counts

- ☒ 1 Sale of Alcoholic Beverage/Beer to Minor-\$1,500
TCA§ 57-4-203(b)(1)(A) or (B); 57-3-406(d)
- ☐ Minor in Possession TCA§ 57-4-203(b)(2)(A)- \$1,500
- ☐ Sell/Furnishing Alcoholic Beverage to Visibly \$1,500
Intoxicated Person TCA§57-4-203(c)(1); 57-3-406(c)
- ☐ Failure to Properly Display Permit in a Conspicuous Place
TABC Rule #0100-1-03(17) - \$200.00
- ☐ Failure to Post "Pregnancy Warning" TCA§ 57-1-211 -
\$150.00
- ☐ Other _____
- ☐ Other _____

No. of Counts

- ☐ Employing Persons to Dispense Alcoholic Beverages W/O
a Permit TCA§ 57-4-203(h); 57-3-204(4)(c)-\$150.00
- ☐ Failure to Timely Renew TCA§57-3-605-\$150 (Non-
Resident); 57-3-213(a)(b)-\$350.00 (Retail), \$150 (Winery or
Direct Shipper); 57-4-201(a)-\$350 (LBD)—(Circle One)
- ☐ On Premises Sale By Bottle Restricted Rule #0100-1-.03(8)
TCA§57-4-203(e)(1)-\$250.00
- ☐ Hours of Sale Violation TCA§57-4-203(d); 57-3-406(e) Rule
#0100-1-.03(2); 0100-03-.13(4)-\$750.00
- ☐ Purchasing Alcoholic Beverages From Other Than A
Licensed Wholesaler TCA§57-3-404 et seq.-\$300/bottle
- ☐ Other _____
- ☐ Other _____

NARRATIVE: ON 04/04/19 DURING A USTOP OPERATION AN EMPLOYEE SOLD
A HEINER BEER TO AN UNDER 21 MINOR FEMALE WITNESSED
By SA Amorese.

The undersigned further states that he/she has just and reasonable grounds to believe and does believe, that the person/establishment named above committed the offense(s) herein set forth, contrary to Law and/or Rule. This 4th day of April, 2019.
William Zitz #110

SPECIAL AGENT/REGULATORY OFFICER/ISSUING PERSONNEL

NOTICE: This Regulatory Citation imposes a total civil penalty in the amount of \$ 1,500. If you choose to settle this Regulatory Citation without contesting the alleged violation(s), you are **REQUIRED** to pay the total civil penalty amount no later than twenty (20) calendar days from the citation date listed above. If you wish to contest this Regulatory Citation and the violation(s) contained therein you may do so by contacting ABC by phone at 615-741-1602 or by mail at the following address: 500 James Robertson Pkwy, Davy Crockett Tower, 3rd Floor, Nashville, TN 37243-0755, within 20 calendar days of receipt. This citation can only be satisfied by admitting to the violation and making payment, or by requesting a hearing by phone or mail. Failing to satisfy this citation may result in administrative penalties and/or costs being assessed against you, including the suspension and/or revocation of your TABC permit.

I understand the above notice, and my signature below is an acknowledgement of my understanding, and not an admission of guilt.

Signature of Recipient/Authorized Agent of Permittee _____ Date _____ Recipient's Name and Title (PRINT) William Zitz, CHIEF-OWBAC

IF MAILED: Date Mailed: _____ Mailed by: Initials: _____ Printed Name: _____

ADMISSION OF GUILT:

I/we agree to settle this TABC Regulatory Citation with the admission of my/our guilt as to the violation(s) noted above and the payment of the total civil penalty imposed, as noted above, and in the amount of \$ _____ (by business check, cashier's check or money order [no personal checks or cash accepted]). Upon the plea of guilty as to the above noted violations I/we enter a plea of guilt hereby waving any and all rights to a TABC administrative hearing and/or appeals.

Signature of Authorized Agent of Permittee or Permittee _____ Date _____ Authorized Agent of Permittee or Permittee's Name and Title (PRINT) _____

**BRENTWOOD BEER BOARD
PENALTY GUIDELINES
(Adopted April 22, 2002)**

The following guidelines are intended to provide standards to the Brentwood Beer Board in imposing penalties for violations of state or local beer laws and regulations in a fair, reasonable and consistent manner. These guidelines are not intended to dictate the penalty to be imposed, but rather to provide guidance to the members of the Board in their decisions. For each violation heard by the Beer Board, the Board will continue to have complete discretion to exercise any and all powers granted by state law and local ordinance. In each case, the Board may agree that a greater or lesser penalty should be imposed due to aggravating or mitigating circumstances.

In applying the penalties below, it is suggested that if no violations have occurred within the previous three years, the incident will be treated as a first violation. The “alternative” penalties set forth below would be allowed only if the Beer Board deems that the permit holder had appropriate training and/or other preventative measures in place to prevent violations of the beer laws, and that appropriate steps will be taken to prevent future violations. As a condition of the alternative penalty, the Beer Board may require the permit holder to submit documentation regarding training programs in place. It is suggested that the penalty period begin one week following the Beer Board’s decision, in order to provide time for the permit holder to comply with the conditions of the alternative penalty.

	<u>Penalty</u>	<u>Alternative</u>
First violation	<i>30 day suspension</i>	<i>One week suspension/post signs*</i>
Second violation	<i>45 day suspension</i>	<i>Two week suspension/post signs*</i>
Third violation	<i>60 day suspension</i>	<i>No alternative</i>
Fourth violation	<i>Revocation**</i>	<i>No alternative</i>

** See attached wording and specifications for sign to be posted at each entrance and on each beer cooler door.*

*** In order to impose revocation, there must be at least two violations within a 12-month period.*

Note: At the time of adoption of these guidelines, Tennessee law also provided that the Beer Board may offer a permit holder the alternative of paying a monetary penalty of up to \$1,500 for the sale of beer to a minor, or up to \$1,000 for other violations. The maximum penalty for the sale of beer to a minor was subsequently increased to \$2,500. However, the Tennessee General Assembly also created a “Responsible Vendor” program for off-premises beer permit holders. The permit of an off-premises permit holder who complies with this program may not be suspended or revoked. However, a monetary penalty not to exceed \$1,000 may be imposed on a “Responsible Vendor” for the sale of beer to a minor or any other offense.

NO BEER SALES

BEER WAS SOLD TO A MINOR
AT THIS LOCATION.
PERMIT SUSPENDED.

By order of the
City of Brentwood Beer Board.

{Above text to be printed in red lettering, with top line approximately 1 ½ inches tall; middle lines approximately 1 inch tall; and bottom line approximately 1 inch tall.}

<u>Beer Violations History by Name</u>			
<u>Name of Business</u>	<u>Address</u>	<u>Date of Violation</u>	<u>Suspension/Penalty</u>
55 South	7031 Executive Center Dr	2/27/2018	Paid \$2000 penalty
Amoco Food Shop	7112 Moores Lane	9/8/1997	30 day probation
B P Oil	7108 Moores Lane	4/23/1993	105 days
B P Oil	158 Franklin Road	5/3/1993	4 months
Brentwood Market & Deli	925 Franklin Road	5/18/1994	45 days
Brick's Café & Bistro	330 Franklin Road	2/27/2018	Paid \$2000 penalty
Brick's Café & Bistro	330 Franklin Road	4/4/2019	30 days with signs
Canyon Café	1645 Westgate Circle	8/19/1999	30 days
Chili's Grill & Bar	107 Creekside Crossing	12/28/2013	7 days with signs
Chili's Grill & Bar	107 Creekside Crossing	4/4/2019	7 days with signs
Church Street Pub (a/k/a The Pub or the Pac)	7022 Church Street	8/19/2004	6 months
City Café	330 Franklin Rd, Ste 250B	4/4/2019	TBD
Concord General Store	1101 Wilson Pike	5/18/1994	30 days
Cozymel's Coastal Grill	1654 Westgate Circle	12/28/2013	7 days with signs
Gulf Market	158 Franklin Road	2/19/1989	60 days
H. G. Hill #21	235 Franklin Road	3/15/2002	Paid \$1500 penalty
Hanabi Japanese Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Jefferson's Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Judge Bean's BBQ	7022 Church Street	12/28/2013	7 days with signs
Kroger	330 Franklin Road	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	3/8/2002	30 days (new owner)
Le Skewer	330 Franklin Rd, Ste 904D	4/4/2019	TBD
Little Bros Amoco	141 Franklin Road	3/5/1993	60 days
Little Bros Amoco	141 Franklin Road	5/18/1994	120 days
Little Bros Amoco	141 Franklin Road	3/15/2002	7 days with signs
Local Taco	146 Pewitt Drive	2/27/2018	7 days with signs
Local Taco	146 Pewitt Drive	4/4/2019	30 days with signs
Ludlow & Prime	330 Franklin Rd, Ste 226B	4/4/2019	TBD
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/18/1994	45 days

Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	8/19/1999	30 days
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/20/2016	Paid \$1000 penalty
Pei Wei Asian Diner	101 Creekside Crossing, Ste 1800	4/4/2019	TBD
Piggly Wiggly	144 Wilson Pike	5/18/1994	45 days
Shogun Steakhouse	1648 Westgate Circle	8/19/1999	30 days
Sportsman Lodge	1640 Westgate Circle	8/19/1999	30 days
Star Market	120 Franklin Road	10/19/1984	30 day probation
Star Market	120 Franklin Road	4/4/1985	30 days
Stout Burgers and Beers	400 Centerview Drive	2/27/2018	Paid \$2500 penalty
The Smokey Cigar 2	1800 Carothers Pkwy, Ste 1	5/20/2016	Paid \$1000 penalty
Twin Peaks	1634 Galleria Boulevard	4/4/2019	TBD

TO THE BRENTWOOD BEER BOARD
To be submitted in advance of violation hearing

Business name: **Le Skewer**

Address: 330 Franklin Rd, Ste 904D, Brentwood, TN 37027

Does this business wish to contest the charges described in the summons?

_____ Yes ☒ No

If "no," please provide the following information (using additional pages if necessary):

(a) Description of the employee training programs and other preventative measures designed to prevent violations of the beer laws before the violation occurred

- * EMPLOYEES HAVE A.B.C. TRAINING & CORRECT (RED) TO SERVE ALCOHOL
- * EMPLOYEES MUST UNDERSTAND & SIGN OFF ON "LE-SKEWER ALCOHOL POLICIES" FORM (POLICIES ATTACHED)
- * DAILY PRE-SHIFT MEETING BY MANAGER TO RE-REINFORCE LEARN DATE TO CONSUME ALCOHOL

(b) Did the employee charged with selling beer to an underaged person complete all required training?

☒ Yes _____ No

(c) Reasons the preventative measures failed, resulting in this violation

- * EMPLOYEE CHARGED THE AGENT BUT MIS-READ THE BIRTH DATE

(d) Any subsequent measures taken since the violation occurred to prevent future occurrences

- * RE-INFORMING ON DAILY BASIS ON CORRECT ALCOHOL SERVING PROCEDURES & CONSEQUENCES OF NOT PROPERLY I.D.'ING THE CUSTOMER

For off-premises permit holders only: Is this business a participant in Tennessee's Responsible Vendor program and compliant with the program's requirements?

_____ Yes _____ No

Submitted by:

(Print name and title)

Signature: William Zaitz

Date: 7/10/2019

Le Skewer Mediterranean Restaurant Alcohol Policies

At Le Skewer we encourage our guests to drink responsibly and we expect our employees to ensure that all alcohol related laws are followed at all times.

Checking I.D.'s

It is our policy that our servers and bartenders check the identification of anyone that appears to be under the age of 30. The only legally defensible forms of I.D. are;

- Unexpired state-issued I.D. Card
- Unexpired state-issued Drivers License
- Unexpired U.S. Passport

Things to Check

- The Birthdate of the guest. They must be at least 21 years old to be served alcohol. This includes “ Non-Alcoholic” beers.
- The Photo must match the guest. So must the physical description.
- Does the I.D. appear to have been tampered with? For example, is it torn ,frayed ,cut or glued?

If there is any doubt as to the validity of any I.D. , please bring it to your Manager On Duty prior to serving the guest.

Three Drink Rule

It is important that our managers are aware of the alcohol consumption rates of our guests. The “ Three Drink Rule “ is intended for this purpose. This rule states that a manager must be notified when a guest orders his or her fourth drink. It is the responsibility of the Manager to judge the appropriateness of serving a fourth drink based on the factors listed below. Any and each subsequent drink must also be judged by the Manager On Duty.

Intoxication

It is against the law to serve an intoxicated person alcohol. It is also against the law for an intoxicated person to be in our restaurant. It is critical that servers and bartenders carefully monitor the amount of alcohol we serve our guests and the pace at which we serve it.

Factors Contributing to Intoxication

- Speed of consumption
- Height/Weight of the guest
- Type of drink consumed
- Medication, fatigue, etc.,,,

Some Signs of Intoxication Include:

- Slurred Speech
- An Inability to focus or concentrate
- Diminished Motor Skills
- Excessive or Loud speech
- Mood Swings

It is the server/bartenders responsibility to alert you Manager immediately if you think we may have over-served a guest, or if you suspect a guest has arrived intoxicated. It is the Manager's responsibility to then observe and make the decision of whether or not to serve the guest.

Refusing Service

If the decision is made to refuse service of alcohol to a guest, this must be communicated by a salaried Manager. This is a situation that requires the utmost tact and diplomacy. Remember, we want this guest to remain a loyal patron of Le Skewer.

We have a legal responsibility to attempt to prevent intoxicated people from leaving our establishment and getting behind the wheel to drive. Our Managers' should:

- Determine whether or not the guest has a designated driver with him/her. If so, the manager must communicate and make sure the designated driver will be taking their friend home.
- Offer to call a cab. Taxi company numbers are available in the office and behind the bar. If we have to pay for the cab, we will.
- If all attempts to prevent the guest from driving away fail, it is our responsibility to notify the authorities.

Local Laws

Different States and Municipalities enact different laws with regard to the sale and consumption of alcohol. You will be taught and expected to follow any and all laws in this regard.

Alcohol and Employees

Le Skewer allows its employees to enjoy alcoholic beverages at Le Skewer within the following parameters:

- You must have been off work for at least an hour and have left the premises and returned
- You must be completely out of the Le Skewer uniform
- You must be seated in the dining room and waited on by a server
- You must be of legal age to consume alcohol

- The alcohol limit for employees is two drinks
- The drink must be rung up and paid for
- No employee may purchase alcohol during the last hour of business

The ability to purchase alcohol is a privilege, not a right. Violating any of these guidelines will result in discipline up to and including termination. Le Skewer reserves the right to amend these policies at any time.

Brentwood Beer Board Agenda

Meeting Date: 08/12/2019

Submitted by: Holly Earls, Administration

Department: Administration

Information

Subject

Beer Law Violation Hearing - Ludlow & Prime, 330 Franklin Rd, Ste 226B

Background

In an operation carried out by the Tennessee Alcoholic Beverage Commission, an underage informant purchased beer at Ludlow & Prime on April 4, 2019. The Brentwood Beer Board is empowered to take action against the restaurant for violating Tennessee law and/or the Brentwood Municipal Code.

A summons (copy attached) was served on the manager of Ludlow & Prime on May 20, 2019, requiring an appearance before the Beer Board on August 12, 2019 at 7:00 p.m. following the City Commission meeting. A suggested procedural format used in previous Beer Board proceedings is also attached. A questionnaire was received from the permit holder indicating that the permit holder does not wish to contest the charges. It also includes documentation showing measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences.

Since Ludlow & Prime is not contesting the charges, there is no need for an evidentiary hearing in this matter. To supplement the documentation provided to the City, representatives may also make statements to the Beer Board at the August 12 hearing. At the conclusion of the hearing, the Beer Board will then discuss and vote upon the appropriate penalty, if any, to be imposed.

For the sale of beer to a minor at this location, the Beer Board may suspend the beer permit. (If a permit holder has committed at least two violations within a 12-month period, the Beer Board may permanently revoke the beer permit. That is not the case in this matter.) At the time a suspension or revocation is imposed, state law authorizes the Beer Board to offer the permit holder the alternative of paying a civil penalty in lieu of the suspension or revocation. For the offense of selling beer to a minor, the civil penalty may not exceed \$2,500. If a civil penalty is offered as an alternative, a permit holder must pay the penalty within seven days; otherwise, the suspension or revocation will go into effect.

In 2002, the Beer Board adopted guidelines for penalties to be imposed when beer permit holders violate the beer laws. Those guidelines are also attached. The guidelines are

intended to provide for consistency in the way beer law violations are handled, although the Beer Board has discretion to impose penalties other than those outlined in the guidelines.

Finally, when the sale of beer for on-premises consumption results in a suspension or revocation by a local beer board, state law requires that notification of the beer board's action be sent by certified mail to the Tennessee Alcoholic Beverage Commission (ABC). The ABC may then take further action against the permit holder.

Please contact the City Attorney if you have questions about this matter.

Staff recommendation

Attachments

Hearing Format
Summons & Regulatory Citation
Penalty Guidelines
Beer Violations History
Questionnaire

BRENTWOOD BEER BOARD
August 12, 2019
Case No. BBB-2019-06
Violation Hearing - Procedural Format
Ludlow & Prime, 330 Franklin Rd, Ste 226B

1. Chairman calls case number and permit holder's name: *Case No. BBB-2019-06, Ludlow & Prime.*
2. Chairman asks permit holder's representative to step forward and identify him/herself
3. Chairman reads the charges against the permit holder: *The Chief of Police and the City Manager of the City of Brentwood have brought the following charges: On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of 21 years at Ludlow & Prime, located at 330 Franklin Rd, Ste 226B.*
4. Chairman states: *In documents filed with the Beer Board, Ludlow & Prime has indicated that it does not wish to contest the charges brought against it. We have also received documentation of measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences. Do you have any further statements you wish to make to the Beer Board that related to this matter?*
5. Following the representative's statement (if any) the chairman and other members of the Beer Board (upon being recognized by the chairman) may ask questions of the representative.
6. Following questions and discussion by the Beer Board members, any member may move to impose a penalty (or that no penalty be imposed.) The penalty may be based on the penalty guidelines adopted by the Beer Board, or it may deviate from the guidelines at the Beer Board's discretion. A motion to suspend or revoke a permit should state the date on which the suspension or revocation is to be effective. Upon a second to the motion and any further discussion, a vote is taken on the motion. The motion passes if a majority of the board members present and voting vote for the motion.

**BEFORE THE BEER BOARD FOR THE CITY OF BRENTWOOD, TENNESSEE
NOTICE OF HEARING ON BEER LAW VIOLATIONS**

RHOTT
TO: ~~Tim~~ Kohler (or current manager)
Ludlow & Prime
330 Franklin Rd, Ste 226B
Brentwood, TN 37027

Case No. BBB-2019-06

You are hereby summoned to appear before the Beer Board for the City of Brentwood, Tennessee on **August 12, 2019 at 7:00 p.m. following the City Commission meeting**, at Brentwood City Hall, 5211 Maryland Way, 2nd Floor Commission Chambers, Brentwood, Tennessee to then and there show cause, if any you have, why the beer permit of Ludlow & Prime at 330 Franklin Rd, Ste 226B, Brentwood, Tennessee, should not be suspended or why other disciplinary action should not be taken by said Beer Board for the following reasons, to wit:


On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of twenty-one (21) years at Ludlow & Prime at 330 Franklin Rd, Ste 226B, within the corporate limits of the City of Brentwood, Tennessee, contrary to T.C.A. §57-5-301(a). Such unlawful sale of beer constitutes grounds for beer permit suspension under T.C.A. §57-5-108.

At the hearing referenced above, you are entitled to be represented by an attorney of your choice.

These proceedings are initiated at the request of the Chief of Police and the City Manager of the City of Brentwood, pursuant to the powers and duties assigned to them under the Charter of the City of Brentwood.



KIRK BEDNAR
City Manager



JEFF HUGHES
Chief of Police



KRISTEN L. CORN
City Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing notice has been served by hand delivery upon Tim Kohler (or current manager RHETT KOHLER), c/o Ludlow & Prime, 330 Franklin Rd, Ste 226B, Brentwood, Tennessee 37027, on this the 20TH day of MAY, 2019.

 #1348

Brentwood Police Department

MARK STEPHENS



REGULATORY CITATION

THE NUMBER OF VIOLATIONS ON THIS REGULATORY CITATION IS (TOTAL)= 1 (MAX. 5)

THE UNDERSIGNED BEING DULY SWORN UPON HIS/HER OATH DEPOSES THAT:

ON THE 4th DAY OF April, 20 19

PERMITEE: Ludlow & Prime ADDRESS: 330 FRANKLIN Rd

CITY: Brentwood, TN COUNTY: Williamson ZIP: 37027 PHONE: 615 942 5907

PERMIT NUMBER: LBDEST- EXPIRATION DATE: 05/17/2019

WIL-1800350

AFORSAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

No. of Counts

- ☒ 1 Sale of Alcoholic Beverage/Beer to Minor \$1,500
TCA§ 57-4-203(b)(1)(A) or (B); 57-3-406(d)
- ☐ Minor in Possession TCA§ 57-4-203(b)(2)(A)- \$1,500
- ☐ Sell/Furnishing Alcoholic Beverage to Visibly \$1,500
Intoxicated Person TCA§57-4-203(c)(1); 57-3-406(c)
- ☐ Failure to Properly Display Permit in a Conspicuous Place
TABC Rule #0100-1-03(17) - \$200.00
- ☐ Failure to Post "Pregnancy Warning" TCA§ 57-1-211 -
\$150.00
- ☐ Other _____
- ☐ Other _____

No. of Counts

- ☐ Employing Persons to Dispense Alcoholic Beverages W/O
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- ☐ Failure to Timely Renew TCA§57-3-605-\$150 (Non-
Resident); 57-3-213(a)(b)-\$350.00 (Retail), \$150 (Winery or
Direct Shipper); 57-4-201(a)-\$350 (LBD)—(Circle One)
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- ☐ Purchasing Alcoholic Beverages From Other Than A
Licensed Wholesaler TCA§57-3-404 et seq.-\$300/bottle
- ☐ Other _____
- ☐ Other _____

NARRATIVE: ON 04-04-19 DURING A LUSTOP OPERATION AN EMPLOYEE
SERVED A BAD-LIGHT BOTTLE (10 CHECKED) TO AN UNDER 21
MINOR FEMALE & WITNESSED BY SA ANDRESE.

The undersigned further states that he/she has just and reasonable grounds to believe and does believe, that the person/establishment named above committed the offense(s) herein set forth, contrary to law and/or Rule. This 4th day of April, 20 19.

SPECIAL AGENT/REGULATORY OFFICER/ISSUING PERSONNEL

NOTICE: This Regulatory Citation imposes a total civil penalty in the amount of \$ 1,500.00. If you choose to settle this Regulatory Citation without contesting the alleged violation(s), you are **REQUIRED** to pay the total civil penalty amount no later than twenty (20) calendar days from the citation date listed above. If you wish to contest this Regulatory Citation and the violation(s) contained therein you may do so by contacting ABC by phone at 615-741-1602 or by mail at the following address: 500 James Robertson Pkwy, Davy Crockett Tower, 3rd Floor, Nashville, TN 37243-0755, within 20 calendar days of receipt. This citation can only be satisfied by admitting to the violation and making payment, or by requesting a hearing by phone or mail. Failing to satisfy this citation may result in administrative penalties and/or costs being assessed against you, including the suspension and/or revocation of your TABC permit.

I understand the above notice, and my signature below is an acknowledgement of my understanding, and not an admission of guilt.

Signature of Recipient/Authorized Agent of Permittee

Date

Recipient's Name and Title (PRINT)

IF MAILED: Date Mailed:

Mailed by: Initials:

Printed Name:

ADMISSION OF GUILT:

I/we agree to settle this TABC Regulatory Citation with the admission of my/our guilt as to the violation(s) noted above and the payment of the total civil penalty imposed, as noted above, and in the amount of \$ _____ (by business check, cashier's check or money order [no personal checks or cash accepted]). Upon the plea of guilty as to the above noted violations I/we enter a plea of guilt hereby waiving any and all rights to a TABC administrative hearing and/or appeals.

Signature of Authorized Agent of Permittee or Permittee

Date

Authorized Agent of Permittee or Permittee's Name and Title (PRINT)

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(Adopted April 22, 2002)**

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PERMIT SUSPENDED.

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City of Brentwood Beer Board.

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Hanabi Japanese Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Jefferson's Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Judge Bean's BBQ	7022 Church Street	12/28/2013	7 days with signs
Kroger	330 Franklin Road	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	3/8/2002	30 days (new owner)
Le Skewer	330 Franklin Rd, Ste 904D	4/4/2019	TBD
Little Bros Amoco	141 Franklin Road	3/5/1993	60 days
Little Bros Amoco	141 Franklin Road	5/18/1994	120 days
Little Bros Amoco	141 Franklin Road	3/15/2002	7 days with signs
Local Taco	146 Pewitt Drive	2/27/2018	7 days with signs
Local Taco	146 Pewitt Drive	4/4/2019	30 days with signs
Ludlow & Prime	330 Franklin Rd, Ste 226B	4/4/2019	TBD
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/18/1994	45 days

Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	8/19/1999	30 days
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/20/2016	Paid \$1000 penalty
Pei Wei Asian Diner	101 Creekside Crossing, Ste 1800	4/4/2019	TBD
Piggly Wiggly	144 Wilson Pike	5/18/1994	45 days
Shogun Steakhouse	1648 Westgate Circle	8/19/1999	30 days
Sportsman Lodge	1640 Westgate Circle	8/19/1999	30 days
Star Market	120 Franklin Road	10/19/1984	30 day probation
Star Market	120 Franklin Road	4/4/1985	30 days
Stout Burgers and Beers	400 Centerview Drive	2/27/2018	Paid \$2500 penalty
The Smokey Cigar 2	1800 Carothers Pkwy, Ste 1	5/20/2016	Paid \$1000 penalty
Twin Peaks	1634 Galleria Boulevard	4/4/2019	TBD

TO THE BRENTWOOD BEER BOARD
To be submitted in advance of violation hearing

Business name: **Ludlow & Prime**

Address: 330 Franklin Rd, Ste 226B, Brentwood, TN 37027

Does this business wish to contest the charges described in the summons?

_____ Yes ☒ No

If "no," please provide the following information (using additional pages if necessary):

(a) Description of the employee training programs and other preventative measures designed to prevent violations of the beer laws before the violation occurred

We dedicate a day of all Server/Bartender training to the proper sale of Alcoholic Beverages. This includes identifying underage individuals as well as identifying intoxicated individuals. The employee is given examples of both situations and is given instructions on what to do.

(b) Did the employee charged with selling beer to an underage person complete all required training?

☒ Yes _____ No

(c) Reasons the preventative measures failed, resulting in this violation

Human Error Admitted by the employee in question. He checked the ID and misread the year on the ID.

(d) Any subsequent measures taken since the violation occurred to prevent future occurrences

We have installed a digital calendar that displays the date a ~~sex~~ person must be born on or before to legally drink and order an alcoholic Beverage.

For off-premises permit holders only: Is this business a participant in Tennessee's Responsible Vendor program and compliant with the program's requirements?

_____ Yes ☒ No

Submitted by:
(Print name and title)

Rhett Kohler, General Manager

Signature: 

Date: 7/10/19

Brentwood Beer Board Agenda

Meeting Date: 08/12/2019

Submitted by: Holly Earls, Administration

Department: Administration

Information

Subject

Beer Law Violation Hearing - Pei Wei Asian Diner, LLC, 101 Creekside Crossing, Ste 1800

Background

In an operation carried out by the Tennessee Alcoholic Beverage Commission, an underage informant purchased beer at Pei Wei Asian Diner on April 4, 2019. Further, the employee selling the beer was under the age of eighteen (18) years old. The Brentwood Beer Board is empowered to take action against the restaurant for violating Tennessee law and/or the Brentwood Municipal Code.

A summons (copy attached) was served on the manager of Pei Wei Asian Diner on May 20, 2019, requiring an appearance before the Beer Board on August 12, 2019 at 7:00 p.m. following the City Commission meeting. A suggested procedural format used in previous Beer Board proceedings is also attached. A questionnaire was received from the permit holder indicating that the permit holder does not wish to contest the charges. It also includes documentation showing measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences.

Since Pei Wei Asian Diner is not contesting the charges, there is no need for an evidentiary hearing in this matter. To supplement the documentation provided to the City, representatives may also make statements to the Beer Board at the August 12 hearing. At the conclusion of the hearing, the Beer Board will then discuss and vote upon the appropriate penalty, if any, to be imposed.

For the sale of beer to a minor at this location, the Beer Board may suspend the beer permit. (If a permit holder has committed at least two violations within a 12-month period, the Beer Board may permanently revoke the beer permit. That is not the case in this matter.) At the time a suspension or revocation is imposed, state law authorizes the Beer Board to offer the permit holder the alternative of paying a civil penalty in lieu of the suspension or revocation. For the offense of selling beer to a minor, the civil penalty may not exceed \$2,500. If a civil penalty is offered as an alternative, a permit holder must pay the penalty within seven days; otherwise, the suspension or revocation will go into effect.

In 2002, the Beer Board adopted guidelines for penalties to be imposed when beer permit holders violate the beer laws. Those guidelines are also attached. The guidelines are intended to provide for consistency in the way beer law violations are handled, although the Beer Board has discretion to impose penalties other than those outlined in the guidelines.

Finally, when the sale of beer for on-premises consumption results in a suspension or revocation by a local beer board, state law requires that notification of the beer board's action be sent by certified mail to the Tennessee Alcoholic Beverage Commission (ABC). The ABC may then take further action against the permit holder.

Please contact the City Attorney if you have questions about this matter.

Staff recommendation

Attachments

Hearing Format

Summons & Regulatory Citation

Penalty Guidelines

Beer Violations History

Questionnaire

BRENTWOOD BEER BOARD
August 12, 2019
Case No. BBB-2019-07
Violation Hearing - Procedural Format
Pei Wei Asian Diner, LLC, 101 Creekside Crossing, Ste 1800

1. Chairman calls case number and permit holder's name: *Case No. BBB-2019-07, Pei Wei Asian Diner, LLC.*
2. Chairman asks permit holder's representative to step forward and identify him/herself
3. Chairman reads the charges against the permit holder: *The Chief of Police and the City Manager of the City of Brentwood have brought the following charges: On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of 21 years at Pei Wei Asian Diner, LLC, located at 101 Creekside Crossing, Ste 1800. Further, the employee selling the beer was under the age of eighteen (18) years old in violation of state law and Brentwood Municipal Code 6-62.*
4. Chairman states: *In documents filed with the Beer Board, Pei Wei Asian Diner, LLC has indicated that it does not wish to contest the charges brought against it. We have also received documentation of measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences. Do you have any further statements you wish to make to the Beer Board that related to this matter?*
5. Following the representative's statement (if any) the chairman and other members of the Beer Board (upon being recognized by the chairman) may ask questions of the representative.
6. Following questions and discussion by the Beer Board members, any member may move to impose a penalty (or that no penalty be imposed.) The penalty may be based on the penalty guidelines adopted by the Beer Board, or it may deviate from the guidelines at the Beer Board's discretion. A motion to suspend or revoke a permit should state the date on which the suspension or revocation is to be effective. Upon a second to the motion and any further discussion, a vote is taken on the motion. The motion passes if a majority of the board members present and voting vote for the motion.

**BEFORE THE BEER BOARD FOR THE CITY OF BRENTWOOD, TENNESSEE
NOTICE OF HEARING ON BEER LAW VIOLATIONS**

TO: Joshua Rogers (or current manager)
Pei Wei Asian Diner, LLC
101 Creekside Crossing, Ste 1800
Brentwood, TN 37027

Case No. BBB-2019-07

You are hereby summoned to appear before the Beer Board for the City of Brentwood, Tennessee on **August 12, 2019 at 7:00 p.m. following the City Commission meeting**, at Brentwood City Hall, 5211 Maryland Way, 2nd Floor Commission Chambers, Brentwood, Tennessee to then and there show cause, if any you have, why the beer permit of Pei Wei Asian Diner, LLC at 101 Creekside Crossing, Ste 1800, Brentwood, Tennessee, should not be suspended or why other disciplinary action should not be taken by said Beer Board for the following reasons, to wit:

On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of twenty-one (21) years at Pei Wei Asian Diner, LLC at 101 Creekside Crossing, Ste 1800, within the corporate limits of the City of Brentwood, Tennessee, contrary to T.C.A. §57-5-301(a). Further, the employee selling the beer was under the age of eighteen (18) years old in violation of state law and Brentwood Municipal Code 6-62. Such unlawful sale of beer constitutes grounds for beer permit suspension under T.C.A. §57-5-108.

At the hearing referenced above, you are entitled to be represented by an attorney of your choice.

These proceedings are initiated at the request of the Chief of Police and the City Manager of the City of Brentwood, pursuant to the powers and duties assigned to them under the Charter of the City of Brentwood.


KIRK BEDNAR
City Manager


JEFF HUGHES
Chief of Police


KRISTEN L. CORN
City Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing notice has been served by hand delivery upon Joshua Rogers (or current manager _____), c/o Pei Wei Asian Diner, LLC, 101 Creekside Crossing, Ste 1800, Brentwood, Tennessee 37027, on this the 20th day of MAY, 2019.



Brentwood Police Department

MARK STEPHENS



REGULATORY CITATION

THE NUMBER OF VIOLATIONS ON THIS REGULATORY CITATION IS (TOTAL)= 2 (MAX. 5)

THE UNDERSIGNED BEING DULY SWORN UPON HIS/HER OATH DEPOSES THAT:

ON THE 4 DAY OF April, 20 19

PERMITEE: Pei Wei Asian Diner ADDRESS: 101 Creekside King

CITY: Brentwood TN COUNTY: Williamson ZIP: 37027 PHONE: _____

PERMIT NUMBER: LBDW10-W14-1821612 EXPIRATION DATE: 07/30/2019

AFORESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

No. of Counts

☒ 1 Sale of Alcoholic Beverage/Beer to Minor-**\$1,500**
TCA§ 57-4-203(b)(1)(A) or (B); 57-3-406(d)

☐ Minor in Possession TCA§ 57-4-203(b)(2)(A)- **\$1,500**

☐ Sell/Furnishing Alcoholic Beverage to Visibly **\$1,500**
Intoxicated Person TCA§57-4-203(c)(1); 57-3-406(c)

☐ Failure to Properly Display Permit in a Conspicuous Place
TABC Rule #0100-1-03(17) - **\$200.00**

☐ Failure to Post "Pregnancy Warning" TCA§ 57-1-211 -
\$150.00

☒ 1 Other L39: Allowing persons under the
age 18 years of age to dispense
Other serve or sell alcoholic beverages
in violation of T.C.A § 57-3-704(6)

No. of Counts

☐ Employing Persons to Dispense Alcoholic Beverages W/O
a Permit TCA§ 57-4-203(h); 57-3-204(4)(c)-**\$150.00**

☐ Failure to Timely Renew TCA§57-3-605-**\$150** (Non-
Resident); 57-3-213(a)(b)-**\$350.00** (Retail), **\$150** (Winery or
Direct Shipper); 57-4-201(a)-**\$350** (LBD) (Circle One)

☐ On Premises Sale By Bottle Restricted Rule #0100-1-.03(8)
TCA§57-4-203(e)(1)-**\$250.00**

☐ Hours of Sale Violation TCA§57-4-203(d); 57-3-406(e) Rule
#0100-1-.03(2); 0100-03-.13(4)-**\$750.00**

☐ Purchasing Alcoholic Beverages From Other Than A
Licensed Wholesaler TCA§57-3-404 et seq.-**\$300/bottle**

☐ Other _____

☐ Other _____

NARRATIVE: During a USD P conducted at this establishment on 04/04/2019, cashier sold on
Bud Light bottle to underage CI. SA Amorese witnessed the sale. SA Amorese said ID
was not checked. Cashier who sold to minor was under 18 years of age.

The undersigned further states that he/she has just and reasonable grounds to believe and does believe, that the person/establishment named above committed the offense(s) herein set forth, contrary to Law and/or Rule. This 4 day of April, 20 19.

Chris H. Mies
SPECIAL AGENT/REGULATORY OFFICER/ISSUING PERSONNEL

NOTICE: This Regulatory Citation imposes a total civil penalty in the amount of \$ 2000⁰⁰. If you choose to settle this Regulatory Citation without contesting the alleged violation(s), you are **REQUIRED** to pay the total civil penalty amount no later than twenty (20) calendar days from the citation date listed above. If you wish to contest this Regulatory Citation and the violation(s) contained therein you may do so by contacting ABC by phone at 615-741-1602 or by mail at the following address: 500 James Robertson Pkwy, Davy Crockett Tower, 3rd Floor, Nashville, TN 37243-0755, within 20 calendar days of receipt. **This citation can only be satisfied by admitting to the violation and making payment, or by requesting a hearing by phone or mail.** Failing to satisfy this citation may result in administrative penalties and/or costs being assessed against you, including the suspension and/or revocation of your TABC permit.

I understand the above notice, and my signature below is an acknowledgement of my understanding, and not an admission of guilt.

[Signature] 4/4/19
Signature of Recipient/Authorized Agent of Permittee Date

Josh Rogers General Manager
Recipient's Name and Title (PRINT)

IF MAILED: Date Mailed: _____ Mailed by: Initials: _____ Printed Name: _____

ADMISSION OF GUILT:

I/we agree to settle this TABC Regulatory Citation with the admission of my/our guilt as to the violation(s) noted above and the payment of the total civil penalty imposed, as noted above, and in the amount of \$ _____ (by business check, cashier's check or money order [no personal checks or cash accepted]). Upon the plea of guilty as to the above noted violations I/we enter a plea of guilt hereby waving any and all rights to a TABC administrative hearing and/or appeals.

Signature of Authorized Agent of Permittee or Permittee

Date

Authorized Agent of Permittee or Permittee's Name and Title (PRINT)

**BRENTWOOD BEER BOARD
PENALTY GUIDELINES
(Adopted April 22, 2002)**

The following guidelines are intended to provide standards to the Brentwood Beer Board in imposing penalties for violations of state or local beer laws and regulations in a fair, reasonable and consistent manner. These guidelines are not intended to dictate the penalty to be imposed, but rather to provide guidance to the members of the Board in their decisions. For each violation heard by the Beer Board, the Board will continue to have complete discretion to exercise any and all powers granted by state law and local ordinance. In each case, the Board may agree that a greater or lesser penalty should be imposed due to aggravating or mitigating circumstances.

In applying the penalties below, it is suggested that if no violations have occurred within the previous three years, the incident will be treated as a first violation. The “alternative” penalties set forth below would be allowed only if the Beer Board deems that the permit holder had appropriate training and/or other preventative measures in place to prevent violations of the beer laws, and that appropriate steps will be taken to prevent future violations. As a condition of the alternative penalty, the Beer Board may require the permit holder to submit documentation regarding training programs in place. It is suggested that the penalty period begin one week following the Beer Board’s decision, in order to provide time for the permit holder to comply with the conditions of the alternative penalty.

	<u>Penalty</u>	<u>Alternative</u>
First violation	<i>30 day suspension</i>	<i>One week suspension/post signs*</i>
Second violation	<i>45 day suspension</i>	<i>Two week suspension/post signs*</i>
Third violation	<i>60 day suspension</i>	<i>No alternative</i>
Fourth violation	<i>Revocation**</i>	<i>No alternative</i>

** See attached wording and specifications for sign to be posted at each entrance and on each beer cooler door.*

*** In order to impose revocation, there must be at least two violations within a 12-month period.*

Note: At the time of adoption of these guidelines, Tennessee law also provided that the Beer Board may offer a permit holder the alternative of paying a monetary penalty of up to \$1,500 for the sale of beer to a minor, or up to \$1,000 for other violations. The maximum penalty for the sale of beer to a minor was subsequently increased to \$2,500. However, the Tennessee General Assembly also created a “Responsible Vendor” program for off-premises beer permit holders. The permit of an off-premises permit holder who complies with this program may not be suspended or revoked. However, a monetary penalty not to exceed \$1,000 may be imposed on a “Responsible Vendor” for the sale of beer to a minor or any other offense.

NO BEER SALES

BEER WAS SOLD TO A MINOR
AT THIS LOCATION.
PERMIT SUSPENDED.

By order of the
City of Brentwood Beer Board.

{Above text to be printed in red lettering, with top line approximately 1 ½ inches tall; middle lines approximately 1 inch tall; and bottom line approximately 1 inch tall.}

<u>Beer Violations History by Name</u>			
<u>Name of Business</u>	<u>Address</u>	<u>Date of Violation</u>	<u>Suspension/Penalty</u>
55 South	7031 Executive Center Dr	2/27/2018	Paid \$2000 penalty
Amoco Food Shop	7112 Moores Lane	9/8/1997	30 day probation
B P Oil	7108 Moores Lane	4/23/1993	105 days
B P Oil	158 Franklin Road	5/3/1993	4 months
Brentwood Market & Deli	925 Franklin Road	5/18/1994	45 days
Brick's Café & Bistro	330 Franklin Road	2/27/2018	Paid \$2000 penalty
Brick's Café & Bistro	330 Franklin Road	4/4/2019	30 days with signs
Canyon Café	1645 Westgate Circle	8/19/1999	30 days
Chili's Grill & Bar	107 Creekside Crossing	12/28/2013	7 days with signs
Chili's Grill & Bar	107 Creekside Crossing	4/4/2019	7 days with signs
Church Street Pub (a/k/a The Pub or the Pac)	7022 Church Street	8/19/2004	6 months
City Café	330 Franklin Rd, Ste 250B	4/4/2019	TBD
Concord General Store	1101 Wilson Pike	5/18/1994	30 days
Cozymel's Coastal Grill	1654 Westgate Circle	12/28/2013	7 days with signs
Gulf Market	158 Franklin Road	2/19/1989	60 days
H. G. Hill #21	235 Franklin Road	3/15/2002	Paid \$1500 penalty
Hanabi Japanese Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Jefferson's Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Judge Bean's BBQ	7022 Church Street	12/28/2013	7 days with signs
Kroger	330 Franklin Road	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	3/8/2002	30 days (new owner)
Le Skewer	330 Franklin Rd, Ste 904D	4/4/2019	TBD
Little Bros Amoco	141 Franklin Road	3/5/1993	60 days
Little Bros Amoco	141 Franklin Road	5/18/1994	120 days
Little Bros Amoco	141 Franklin Road	3/15/2002	7 days with signs
Local Taco	146 Pewitt Drive	2/27/2018	7 days with signs
Local Taco	146 Pewitt Drive	4/4/2019	30 days with signs
Ludlow & Prime	330 Franklin Rd, Ste 226B	4/4/2019	TBD
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/18/1994	45 days

Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	8/19/1999	30 days
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/20/2016	Paid \$1000 penalty
Pei Wei Asian Diner	101 Creekside Crossing, Ste 1800	4/4/2019	TBD
Piggly Wiggly	144 Wilson Pike	5/18/1994	45 days
Shogun Steakhouse	1648 Westgate Circle	8/19/1999	30 days
Sportsman Lodge	1640 Westgate Circle	8/19/1999	30 days
Star Market	120 Franklin Road	10/19/1984	30 day probation
Star Market	120 Franklin Road	4/4/1985	30 days
Stout Burgers and Beers	400 Centerview Drive	2/27/2018	Paid \$2500 penalty
The Smokey Cigar 2	1800 Carothers Pkwy, Ste 1	5/20/2016	Paid \$1000 penalty
Twin Peaks	1634 Galleria Boulevard	4/4/2019	TBD

TO THE BRENTWOOD BEER BOARD
To be submitted in advance of violation hearing

Business name: **Pei Wei Asian Diner, LLC**

Address: 101 Creekside Crossing, Ste 1800, Brentwood, TN 37027

Does this business wish to contest the charges described in the summons?

_____ Yes ☒ No

If "no," please provide the following information (using additional pages if necessary):

(a) Description of the employee training programs and other preventative measures designed to prevent violations of the beer laws before the violation occurred

All current team members above 18 y/o are required to complete state mandated TABC training program.

(b) Did the employee charged with selling beer to an underaged person complete all required training?

_____ Yes ☒ No

(c) Reasons the preventative measures failed, resulting in this violation

Team member is no longer employed.

(d) Any subsequent measures taken since the violation occurred to prevent future occurrences

Currently we are no longer bringing on team members under the age of 18.

For off-premises permit holders only: Is this business a participant in Tennessee's Responsible Vendor program and compliant with the program's requirements?

_____ Yes _____ No

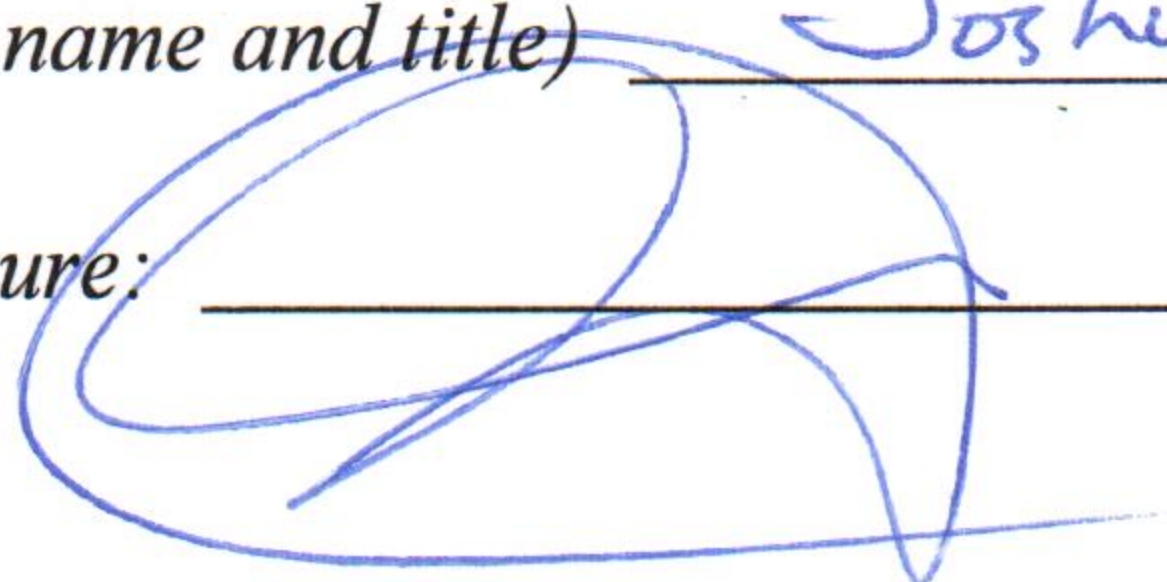
Submitted by:

(Print name and title)

Joshua Rogers

General Manager

Signature: _____



Date: _____

7/23/19

Brentwood Beer Board Agenda

Meeting Date: 08/12/2019

Submitted by: Holly Earls, Administration

Department: Administration

Information

Subject

Beer Law Violation Hearing - Twin Peaks, 1634 Galleria Boulevard

Background

In an operation carried out by the Tennessee Alcoholic Beverage Commission, an underage informant purchased beer at Twin Peaks on April 4, 2019. The Brentwood Beer Board is empowered to take action against the restaurant for violating Tennessee law and/or the Brentwood Municipal Code.

A summons (copy attached) was served on the manager of Twin Peaks on May 20, 2019, requiring an appearance before the Beer Board on August 12, 2019 at 7:00 p.m. following the City Commission meeting. A suggested procedural format used in previous Beer Board proceedings is also attached. A questionnaire was received from the permit holder indicating that the permit holder does not wish to contest the charges. It also includes documentation showing measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences.

Since Twin Peaks is not contesting the charges, there is no need for an evidentiary hearing in this matter. To supplement the documentation provided to the City, representatives may also make statements to the Beer Board at the August 12 hearing. At the conclusion of the hearing, the Beer Board will then discuss and vote upon the appropriate penalty, if any, to be imposed.

For the sale of beer to a minor at this location, the Beer Board may suspend the beer permit. (If a permit holder has committed at least two violations within a 12-month period, the Beer Board may permanently revoke the beer permit. That is not the case in this matter.) At the time a suspension or revocation is imposed, state law authorizes the Beer Board to offer the permit holder the alternative of paying a civil penalty in lieu of the suspension or revocation. For the offense of selling beer to a minor, the civil penalty may not exceed \$2,500. If a civil penalty is offered as an alternative, a permit holder must pay the penalty within seven days; otherwise, the suspension or revocation will go into effect.

In 2002, the Beer Board adopted guidelines for penalties to be imposed when beer permit holders violate the beer laws. Those guidelines are also attached. The guidelines are

intended to provide for consistency in the way beer law violations are handled, although the Beer Board has discretion to impose penalties other than those outlined in the guidelines.

Finally, when the sale of beer for on-premises consumption results in a suspension or revocation by a local beer board, state law requires that notification of the beer board's action be sent by certified mail to the Tennessee Alcoholic Beverage Commission (ABC). The ABC may then take further action against the permit holder.

Please contact the City Attorney if you have questions about this matter.

Staff recommendation

Attachments

Hearing Format
Summons & Regulatory Citation
Penalty Guidelines
Beer Violations History
Questionnaire

BRENTWOOD BEER BOARD
August 12, 2019
Case No. BBB-2019-08
Violation Hearing - Procedural Format
Twin Peaks, 1634 Galleria Blvd

1. Chairman calls case number and permit holder's name: *Case No. BBB-2019-08, Twin Peaks.*
2. Chairman asks permit holder's representative to step forward and identify him/herself
3. Chairman reads the charges against the permit holder: *The Chief of Police and the City Manager of the City of Brentwood have brought the following charges: On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of 21 years at Twin Peaks, located at 1634 Galleria Blvd.*
4. Chairman states: *In documents filed with the Beer Board, Twin Peaks has indicated that it does not wish to contest the charges brought against it. We have also received documentation of measures that were in place to prevent the sale of beer to minors and subsequent measures that have been taken to prevent future occurrences. Do you have any further statements you wish to make to the Beer Board that related to this matter?*
5. Following the representative's statement (if any) the chairman and other members of the Beer Board (upon being recognized by the chairman) may ask questions of the representative.
6. Following questions and discussion by the Beer Board members, any member may move to impose a penalty (or that no penalty be imposed.) The penalty may be based on the penalty guidelines adopted by the Beer Board, or it may deviate from the guidelines at the Beer Board's discretion. A motion to suspend or revoke a permit should state the date on which the suspension or revocation is to be effective. Upon a second to the motion and any further discussion, a vote is taken on the motion. The motion passes if a majority of the board members present and voting vote for the motion.

BEFORE THE BEER BOARD FOR THE CITY OF BRENTWOOD, TENNESSEE
NOTICE OF HEARING ON BEER LAW VIOLATIONS

TO: Dan Pierce (or current manager)
Twin Peaks
1634 Galleria Blvd
Brentwood, TN 37027

Case No. BBB-2019-08

You are hereby summoned to appear before the Beer Board for the City of Brentwood, Tennessee on **August 12, 2019 at 7:00 p.m. following the City Commission meeting**, at Brentwood City Hall, 5211 Maryland Way, 2nd Floor Commission Chambers, Brentwood, Tennessee to then and there show cause, if any you have, why the beer permit of Twin Peaks at 1634 Galleria Blvd, Brentwood, Tennessee, should not be suspended or why other disciplinary action should not be taken by said Beer Board for the following reasons, to wit:

On the 4th day of April, 2019, your employee or agent unlawfully sold beer to a person under the age of twenty-one (21) years at Twin Peaks at 1634 Galleria Blvd, within the corporate limits of the City of Brentwood, Tennessee, contrary to T.C.A. §57-5-301(a). Such unlawful sale of beer constitutes grounds for beer permit suspension under T.C.A. §57-5-108.

At the hearing referenced above, you are entitled to be represented by an attorney of your choice.

These proceedings are initiated at the request of the Chief of Police and the City Manager of the City of Brentwood, pursuant to the powers and duties assigned to them under the Charter of the City of Brentwood.



KIRK BEDNAR
City Manager




JEFF HUGHES
Chief of Police



KRISTEN L. CORN
City Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing notice has been served by hand delivery upon Dan Pierce (or current manager _____), c/o Twin Peaks, 1634 Galleria Blvd, Brentwood, Tennessee 37027, on this the 20TH day of MAY, 2019.


#1348

Brentwood Police Department

MARK STEPHENS



TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
500 James Robertson Pkwy, Davy Crockett Twr, 3rd Floor; Nashville, TN 37243-0755 PHONE: (615) 741-1602

13058



REGULATORY CITATION

THE NUMBER OF VIOLATIONS ON THIS REGULATORY CITATION IS (TOTAL)= 1 (MAX. 5)

THE UNDERSIGNED BEING DULY SWORN UPON HIS/HER OATH DEPOSES THAT:

ON THE 4th DAY OF April, 2019
PERMITEE: Twin Peaks ADDRESS: 1634 Galeria Blvd
CITY: Brentwood, TN COUNTY: Williamson ZIP: 37027 PHONE: 615 221-8869
PERMIT NUMBER: LDRST-WIL-1800150 EXPIRATION DATE: 4/16/2020

AFORESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

No. of Counts

- ☒ Sale of Alcoholic Beverage/Beer to Minor-\$1,500
TCA§ 57-4-203(b)(1)(A) or (B); 57-3-406(d)
- ☐ Minor in Possession TCA§ 57-4-203(b)(2)(A)- \$1,500
- ☐ Sell/Furnishing Alcoholic Beverage to Visibly \$1,500
Intoxicated Person TCA§57-4-203(c)(1); 57-3-406(c)
- ☐ Failure to Properly Display Permit in a Conspicuous Place
TABC Rule #0100-1-03(17) - \$200.00
- ☐ Failure to Post "Pregnancy Warning" TCA§ 57-1-211 -
\$150.00
- ☐ Other _____
- ☐ Other _____

No. of Counts

- ☐ Employing Persons to Dispense Alcoholic Beverages W/O
a Permit TCA§ 57-4-203(h); 57-3-204(4)(c)-\$150.00
- ☐ Failure to Timely Renew TCA§57-3-605-\$150 (Non-
Resident); 57-3-213(a)(b)-\$350.00 (Retail), \$150 (Winery or
Direct Shipper); 57-4-201(a)-\$350 (LBD)—(Circle One)
- ☐ On Premises Sale By Bottle Restricted Rule #0100-1-03(8)
TCA§57-4-203(e)(1)-\$250.00
- ☐ Hours of Sale Violation TCA§57-4-203(d); 57-3-406(e) Rule
#0100-1-03(2); 0100-03-13(4)-\$750.00
- ☐ Purchasing Alcoholic Beverages From Other Than A
Licensed Wholesaler TCA§57-3-404 et seq.-\$300/bottle
- ☐ Other _____
- ☐ Other _____

NARRATIVE: ON 04/04/2019 DURING A USFOP OPERATION AN EMPLOYEE
SERVED A BUD LIGHT DRAFT TO AN UNDER 21 MINOR FEMALE
WITNESSED BY SA AMORSE.

The undersigned further states that he/she has just and reasonable grounds to believe and does believe, that the person/establishment named above committed the offense(s) herein set forth, contrary to Law and/or Rule. This 4th day of April, 2019.

SPECIAL AGENT/REGULATORY OFFICER/ISSUING PERSONNEL

NOTICE: This Regulatory Citation imposes a total civil penalty in the amount of \$ 1,500.00. If you choose to settle this Regulatory Citation without contesting the alleged violation(s), you are **REQUIRED** to pay the total civil penalty amount no later than twenty (20) calendar days from the citation date listed above. If you wish to contest this Regulatory Citation and the violation(s) contained therein you may do so by contacting ABC by phone at 615-741-1602 or by mail at the following address: 500 James Robertson Pkwy, Davy Crockett Tower, 3rd Floor, Nashville, TN 37243-0755, within 20 calendar days of receipt. This citation can only be satisfied by admitting to the violation and making payment, or by requesting a hearing by phone or mail. Failing to satisfy this citation may result in administrative penalties and/or costs being assessed against you, including the suspension and/or revocation of your TABC permit.

I understand the above notice, and my signature below is an acknowledgement of my understanding, and not an admission of guilt.

John Stonehouse Signature of Recipient/Authorized Agent of Permittee Date _____ Recipient's Name and Title (PRINT) John Stonehouse Manager

IF MAILED: Date Mailed: _____ Mailed by: Initials: _____ Printed Name: _____

ADMISSION OF GUILT:

I/we agree to settle this TABC Regulatory Citation with the admission of my/our guilt as to the violation(s) noted above and the payment of the total civil penalty imposed, as noted above, and in the amount of \$ _____ (by business check, cashier's check or money order [no personal checks or cash accepted]). Upon the plea of guilty as to the above noted violations I/we enter a plea of guilt hereby waving any and all rights to a TABC administrative hearing and/or appeals.

Signature of Authorized Agent of Permittee or Permittee Date _____ Authorized Agent of Permittee or Permittee's Name and Title (PRINT) _____

**BRENTWOOD BEER BOARD
PENALTY GUIDELINES
(Adopted April 22, 2002)**

The following guidelines are intended to provide standards to the Brentwood Beer Board in imposing penalties for violations of state or local beer laws and regulations in a fair, reasonable and consistent manner. These guidelines are not intended to dictate the penalty to be imposed, but rather to provide guidance to the members of the Board in their decisions. For each violation heard by the Beer Board, the Board will continue to have complete discretion to exercise any and all powers granted by state law and local ordinance. In each case, the Board may agree that a greater or lesser penalty should be imposed due to aggravating or mitigating circumstances.

In applying the penalties below, it is suggested that if no violations have occurred within the previous three years, the incident will be treated as a first violation. The “alternative” penalties set forth below would be allowed only if the Beer Board deems that the permit holder had appropriate training and/or other preventative measures in place to prevent violations of the beer laws, and that appropriate steps will be taken to prevent future violations. As a condition of the alternative penalty, the Beer Board may require the permit holder to submit documentation regarding training programs in place. It is suggested that the penalty period begin one week following the Beer Board’s decision, in order to provide time for the permit holder to comply with the conditions of the alternative penalty.

	<u>Penalty</u>	<u>Alternative</u>
First violation	<i>30 day suspension</i>	<i>One week suspension/post signs*</i>
Second violation	<i>45 day suspension</i>	<i>Two week suspension/post signs*</i>
Third violation	<i>60 day suspension</i>	<i>No alternative</i>
Fourth violation	<i>Revocation**</i>	<i>No alternative</i>

** See attached wording and specifications for sign to be posted at each entrance and on each beer cooler door.*

*** In order to impose revocation, there must be at least two violations within a 12-month period.*

Note: At the time of adoption of these guidelines, Tennessee law also provided that the Beer Board may offer a permit holder the alternative of paying a monetary penalty of up to \$1,500 for the sale of beer to a minor, or up to \$1,000 for other violations. The maximum penalty for the sale of beer to a minor was subsequently increased to \$2,500. However, the Tennessee General Assembly also created a “Responsible Vendor” program for off-premises beer permit holders. The permit of an off-premises permit holder who complies with this program may not be suspended or revoked. However, a monetary penalty not to exceed \$1,000 may be imposed on a “Responsible Vendor” for the sale of beer to a minor or any other offense.

NO BEER SALES

BEER WAS SOLD TO A MINOR
AT THIS LOCATION.
PERMIT SUSPENDED.

By order of the
City of Brentwood Beer Board.

{Above text to be printed in red lettering, with top line approximately 1 ½ inches tall; middle lines approximately 1 inch tall; and bottom line approximately 1 inch tall.}

<u>Beer Violations History by Name</u>			
<u>Name of Business</u>	<u>Address</u>	<u>Date of Violation</u>	<u>Suspension/Penalty</u>
55 South	7031 Executive Center Dr	2/27/2018	Paid \$2000 penalty
Amoco Food Shop	7112 Moores Lane	9/8/1997	30 day probation
B P Oil	7108 Moores Lane	4/23/1993	105 days
B P Oil	158 Franklin Road	5/3/1993	4 months
Brentwood Market & Deli	925 Franklin Road	5/18/1994	45 days
Brick's Café & Bistro	330 Franklin Road	2/27/2018	Paid \$2000 penalty
Brick's Café & Bistro	330 Franklin Road	4/4/2019	30 days with signs
Canyon Café	1645 Westgate Circle	8/19/1999	30 days
Chili's Grill & Bar	107 Creekside Crossing	12/28/2013	7 days with signs
Chili's Grill & Bar	107 Creekside Crossing	4/4/2019	7 days with signs
Church Street Pub (a/k/a The Pub or the Pac)	7022 Church Street	8/19/2004	6 months
City Café	330 Franklin Rd, Ste 250B	4/4/2019	TBD
Concord General Store	1101 Wilson Pike	5/18/1994	30 days
Cozymel's Coastal Grill	1654 Westgate Circle	12/28/2013	7 days with signs
Gulf Market	158 Franklin Road	2/19/1989	60 days
H. G. Hill #21	235 Franklin Road	3/15/2002	Paid \$1500 penalty
Hanabi Japanese Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Jefferson's Restaurant	214 Ward Circle	2/27/2018	Paid \$2000 penalty
Judge Bean's BBQ	7022 Church Street	12/28/2013	7 days with signs
Kroger	330 Franklin Road	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	5/18/1994	45 days
Kwik Sak	7116 Moores Lane	3/8/2002	30 days (new owner)
Le Skewer	330 Franklin Rd, Ste 904D	4/4/2019	TBD
Little Bros Amoco	141 Franklin Road	3/5/1993	60 days
Little Bros Amoco	141 Franklin Road	5/18/1994	120 days
Little Bros Amoco	141 Franklin Road	3/15/2002	7 days with signs
Local Taco	146 Pewitt Drive	2/27/2018	7 days with signs
Local Taco	146 Pewitt Drive	4/4/2019	30 days with signs
Ludlow & Prime	330 Franklin Rd, Ste 226B	4/4/2019	TBD
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/18/1994	45 days

Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	8/19/1999	30 days
Mapco Express Williams Express (formerly Mapco)	8009 Moores Lane	5/20/2016	Paid \$1000 penalty
Pei Wei Asian Diner	101 Creekside Crossing, Ste 1800	4/4/2019	TBD
Piggly Wiggly	144 Wilson Pike	5/18/1994	45 days
Shogun Steakhouse	1648 Westgate Circle	8/19/1999	30 days
Sportsman Lodge	1640 Westgate Circle	8/19/1999	30 days
Star Market	120 Franklin Road	10/19/1984	30 day probation
Star Market	120 Franklin Road	4/4/1985	30 days
Stout Burgers and Beers	400 Centerview Drive	2/27/2018	Paid \$2500 penalty
The Smokey Cigar 2	1800 Carothers Pkwy, Ste 1	5/20/2016	Paid \$1000 penalty
Twin Peaks	1634 Galleria Boulevard	4/4/2019	TBD

TO THE BRENTWOOD BEER BOARD

To be submitted in advance of violation hearing

Business name: **Twin Peaks**

Address: 1634 Galleria Blvd, Brentwood, TN 37027

Does this business wish to contest the charges described in the summons?

_____ Yes X No

If "no," please provide the following information (using additional pages if necessary):

(a) Description of the employee training programs and other preventative measures designed to prevent violations of the beer laws before the violation occurred

All Servers are TABC Certified and complete an responsible alcohol Service training program

(b) Did the employee charged with selling beer to an underaged person complete all required training?

✓ Yes _____ No

(c) Reasons the preventative measures failed, resulting in this violation

She made a bad decision by not checking the person's I.D.

(d) Any subsequent measures taken since the violation occurred to prevent future occurrences we remind the servers and bartenders everyday in the preshift meetings to check I.D.'s

For off-premises permit holders only: Is this business a participant in Tennessee's Responsible Vendor program and compliant with the program's requirements?

_____ Yes _____ No

Submitted by:

(Print name and title)

Dan Pierce

Owner

Signature: 

Date: 6/10/19