

OAK RIDGE BEER PERMIT BOARD  
REGULAR MEETING

Municipal Building Training Room – Room 104  
Monday, November 18, 2013  
12:00 Noon

AGENDA

1. ATTENDANCE
2. APPROVAL OF MINUTES – Regular Meeting of October 14, 2013
3. APPLICATIONS FOR NEW BEER PERMITS AND ASSOCIATED MANAGER APPROVAL APPLICATIONS – None
4. NEW MANAGER APPROVAL APPLICATIONS – None
5. SHOW CAUSE HEARINGS

Both show cause hearings arise out of a minor compliance check conducted by the Tennessee Alcoholic Beverage Commission. In both cases, the employee did check the minor's ID.

Show Cause Hearing # 2013-08

Aubrey's Inc.

481 S. Illinois Avenue

Class "C" Beer Permit # 1463, Approved: 10/8/2012

Owner: Aubrey Burleson

Managers: Aubrey Burleson and Jody Slimp (Approved 10/8/2012)

At the September 9, 2013 meeting, the Board unanimously voted to hold a Show Cause Hearing for Aubrey's Inc. regarding the sale of beer to a minor which occurred on March 18, 2013 as part of a minor compliance check conducted by the Tennessee Alcoholic Beverage Commission.

Show Cause Hearing # 2013-10

Ruby Tuesday Restaurant

375 S. Illinois Avenue

Class "C" Beer Permit # 1151, Approved: 11/8/1993

Owner: Ruby Tuesday, Inc. (RTI)

Managers: Matthew Morrison (Approved 12/10/2012) & Ashley Tyler (Approved 10/14/13)

At the September 9, 2013 meeting, the Board unanimously voted to hold a Show Cause Hearing for Ruby Tuesday Restaurant regarding the sale of beer to a minor which occurred on March 18, 2013 as part of a minor compliance check conducted by the Tennessee Alcoholic Beverage Commission.

Note: Show Cause Hearing #2013-09 (Hidalgo Mexican Restaurant, Beer Permit #1377, Class C) was scheduled for this meeting; however, the restaurant has closed for business and, therefore, the beer permit is invalid which negates the need for a show cause hearing. The Board has already issued a new beer permit for this location for a new restaurant.

6. **NEW / OLD BUSINESS**

**Possible Ordinance Amendment –Training Requirements**

At the September 9, 2013 meeting, the Board requested language similar to Anderson County's training requirements for beer permit holders with the following exceptions: (1) require training every three years and (2) delete the requirement for the Board to approve the training courses. At the October 14, 2013 meeting, the Board approved revisions to the suggested language for additional consideration at the November 18, 2013 meeting.

7. **ADJOURNMENT**

# MINUTES

**MINUTES OF THE  
OAK RIDGE BEER BOARD  
Regular Meeting**

Municipal Building Training Room – Room 104  
Monday, October 14, 2013  
12:00 noon

PRESENT: Secretary Barton Bailey, Theresa Scott, Debra Solmonson, Chairman Randy Tedford, and Wendy Williams

ABSENT: Colin Colverson

ALSO PRESENT: Tammy Dunn, Senior Staff Attorney  
Alan Massengill, Deputy Chief of Police  
Derrick Dalton, Special Agent Tennessee Alcoholic Beverage Commission

AUDIENCE MEMBERS: Michael Foster, Allies for Substance Abuse Prevention  
Bob Fowler, Knoxville News Sentinel  
John Huotari, Oak Ridge Today

**ATTENDANCE**

Chairman Tedford called the meeting to order at 12:00 noon. All members were present except Mr. Colverson who gave prior notice of his absence to the Legal Department.

**APPROVAL OF MINUTES**

Ms. Williams moved, seconded by Secretary Bailey, to approve the minutes of the September 9, 2013 meeting and the motion carried unanimously.

**APPLICATIONS FOR NEW BEER PERMITS AND THEIR ASSOCIATED MANAGER APPROVALS**

**Application No. 1487**  
**Gaurav A. Patel, Owner/Manager**  
**Grove Market**  
**133 Randolph Road**  
**Class B Permit**

Mr. Patel was present to discuss the application. The Board inquired which type of permit Mr. Patel was seeking since the application was marked for an on-premises consumption permit. Mr. Patel stated the business would still operate the same and needed an off-premises consumption permit. In response to questions by the Board, Mr. Patel provided the following information: the business will have three employees who have already been trained in beer sale, he understands to call the police if needed, and he understands he must monitor the parking lot for unlawful activity.

Having no further questions, Secretary Bailey moved, seconded by Ms. Scott, to approve the beer permit and manager application and the motion carried unanimously.

**Application No. 1488**

**Donald Wayne Lawson and Luis Roberto Rosales, Owners**  
**Luis Roberto Rosales, Manager**  
**Puerto Cancun LLC dba Puerto Cancun Mexican Grill and Bar**  
**299 Oak Ridge Turnpike**  
**Class C Permit**

Mr. Lawson and Mr. Rosales were present to discuss the application. Mr. Lawson stated they have purchased the assets of Hidalgo Mexican Restaurant (which is now closed) and they hope to open their new business at that location later this month. In response to questions by the Board, Mr. Lawson and Mr. Rosales provided the following information: there will be outdoor patio service, they understand the need to monitor the patio area to make sure beer is not handed off to a person who is not legally able to consume it, all IDs would be checked for beer purchases, training is conducted each month specifically on how to spot a fake ID, there is a room available for parties, new employees are trained, all IDs will be checked for beer purchases, and intoxicated persons will not be sold beer.

Having no further questions, Ms. Solmonson moved, seconded by Ms. Scott, to approve the beer permit and the manager application and the motion carried unanimously.

**NEW MANAGER APPROVAL APPLICATIONS**

**Ashley Elizabeth Tyler**  
**Additional Manager**  
**Ruby Tuesday**  
**375 S. Illinois Avenue**

Ms. Tyler was present to discuss her additional manager application. In response to questions by the Board, Ms. Tyler provided the following information: her managerial responsibilities include everything, she is trained and has an ABC card, she is responsible for about twenty servers, new employees are given sixty days to obtain an ABC card (unless the employee has had a card in the past and then there is no grace period), and she is aware of the responsibility to monitor activity in the parking lot.

Having no further questions, Secretary Bailey moved, seconded by Ms. Scott, to approve the manager application and the motion carried unanimously.

**SHOW CAUSE HEARINGS**

**Show Cause Hearing # 2013-06**  
**Hacienda DeGollado**  
**212 S. Illinois Avenue**  
**Class "C" Beer permit # 1355, Approved: 2/11/08**  
**Owners: Hacienda DeGollado LLC (Eduardo Ayala, Christian Munoz, Salvador DeLaCerde, Juan Antonio Ayala, and Jesus Ayala)**  
**Manager: Christian Munoz (Approved 2/11/08)**

Chairman Tedford swore in all witnesses. Special Agent Derrick Dalton was present for the City. Christian Munoz and Eduardo Ayala were present for Hacienda.

Special Agent Dalton stated the Tennessee Alcoholic Beverage Commission conducted a minor compliance check on March 18, 2013. During this check, an employee of Hacienda did not check the underage confidential informant's ID and sold him a Miller Lite bottled beer. The employee was cited to General Sessions Court, received judicial diversion, 100 hours of community service, and probation until

June 2014. The establishment was issued a civil penalty of \$1500 by the State, which was paid. Mr. Munoz and Mr. Ayala did not have any questions for Special Agent Dalton.

Secretary Bailey asked what actions have been taken by the establishment since the unlawful sale of beer to a minor. Mr. Ayala and Mr. Munoz stated they have required training of employees, the employee who sold the beer was new, and this was their only incident in six years, however, they also stated they were at the hearing to be responsible for the actions that occurred. Ms. Scott inquired about personnel and was told there are four servers during the week (five on weekends), one bartender, all employees are and were ABC certified, and the new employee who sold the beer to the minor had only been working for two weeks but had an ABC card. Ms. Solmonson stated the Board had a responsibility to the citizens to ensure the rules were followed and asked what assurance the business could provide that this would not happen again. Mr. Ayala stated they do their best to ensure employees will follow the rules.

Deputy Chief Massengill asked about the community service hours and Mr. Munoz stated the employee has already completed those hours at Goodwill. Ms. Scott asked how frequently are the rules explained to employees and the answer was daily each morning. Ms. Solmonson asked Deputy Chief Massengill if there had been any other issues with the business and he said no. Ms. Williams asked if employees were up to date on training and the answer was yes. Secretary Bailey asked if there were other compliance checks conducted by the State on this business. Special Agent Dalton stated he was not sure but the business should have been checked about four times prior and the business should have letters of compliance from the State.

Ms. Solmonson moved, seconded by Chairman Tedford, that the business had shown sufficient cause as to why the Board should not take negative action against the beer permit. The motion carried by a vote of 3 to 2 with Secretary Bailey and Ms. Scott voting against.

Secretary Bailey and Ms. Scott asked the business to voluntarily submit training records and Mr. Munoz stated he would do so within two weeks.

**Show Cause Hearing # 2013-07**  
**Oak Ridge Moose Lodge #1316**  
**103 N. Jefferson Avenue**  
**Class "D" Beer permit # 984, Approved: 4/11/88**  
**Owners: Membership Based**  
**Manager: James M. Leitnaker, Jr. (Approved 1/9/12)**

Chairman Tedford swore in all witnesses. Special Agent Derrick Dalton was present for the City. Mr. Leitnaker was present for the Moose. Four audience members were also present for this hearing on behalf of the Moose but did not speak at the hearing.

Special Agent Dalton stated the Tennessee Alcoholic Beverage Commission conducted a minor compliance check on March 18, 2013. During this check, a member of the Moose allowed non-guests inside the private club and signed them in as guests, which is a violation of State regulations. Additionally, the underage confidential informant's ID was not checked and he was sold a Bud Lite bottled beer. The State issued a civil penalty of \$2000 (\$500 for allowing a non-member entry and \$1500 for the sale of beer to a minor). The penalty was paid.

Chairman Tedford asked if the employee is still working there and the answer was no. Chairman Tedford also asked if the member who signed the non-guests in as "guests" was still a member and the answer was yes but Mr. Leitnaker said Moose rules do not allow him to take further action against the member. Mr. Leitnaker stated he often discusses the rules with members but the rules were not followed.

When asked, Mr. Leitnaker stated the employees (there are four) are trained and documentation of such training is posted in the lodge, but the employee who sold the beer was only on his third shift. Also, when asked, Mr. Leitnaker said the member who allowed the non-guests inside has been a member for many years (maybe fifteen to twenty).

Secretary Bailey moved, seconded by Ms. Scott, that the Moose had not shown sufficient cause as to why the Board should not take negative action. The Board discussed the motion. Secretary Bailey stated it was his intent to request a one week suspension with no civil penalty which would allow the establishment time to emphasize the rules to the membership since the problem appears to be an issue with members following the rules. Ms. Scott agreed stating that the members should have known the rules but failed to follow them. Ms. Solmonson asked Deputy Chief Massengill if there were other issues and his response was no. Deputy Chief Massengill elaborated that private clubs usually take care of their own issues and only call the police if things get out of hand. Chairman Tedford stated this would give time to get the point across to the members to follow the rules. The motion carried unanimously.

Secretary Bailey moved, seconded by Ms. Scott, to impose a seven day suspension beginning at 12:01 a.m. on Monday, October 21, 2013 and ending at 11:59 p.m. on Sunday, October 27, 2013, and the motion carried unanimously.

The Board asked how the Police Department would ensure compliance with the suspension since the lodge is private and Mr. Leitnaker stated Deputy Chief Massengill would be welcome. Mr. Leitnaker stated this may wake up some members but it will also hurt the lodge's community service activities.

## **NEW / OLD BUSINESS**

### **Possible Ordinance Amendment – Training Requirements**

The Board discussed proposed language to amend the City Code to require formal training of all employees prior to serving/selling beer. The proposed language was based upon Anderson County's training requirements for beer permit holders with the following exceptions: (1) require training every three years and (2) delete the requirement for the Board to approve the training courses.

There was concern voiced by Ms. Solmonson about the burden on the businesses to require formal training. Ms. Williams voiced concern that businesses needed formal training as did Secretary Bailey. The Board discussed whether there should be a grace period for new employees to obtain formal training and if such employees would be allowed to sell/serve beer during that period. After much discussion, Secretary Bailey moved, seconded by Ms. Scott, to allow a thirty day grace period for new employees to obtain formal training but to also allow those employees to sell/serve beer under the supervision of a certified employee. The motion carried by a vote of 4 to 0 with Ms. Solmonson abstaining.

The Board also discussed a way to amend the language to make it clear that owners (permittees) would be required to have the training as well. Ms. Dunn suggested the language be changed from requiring "employees" to requiring any "person" to be trained which would cover the permittee. Secretary Bailey moved, seconded by Ms. Scott, to amend the language accordingly and the motion carried by a vote of 4 to 0 with Ms. Solmonson abstaining.

The proposed language, as amended, will be brought back at the next meeting for consideration.

**Anderson County Underage Drinking Task Force**

Ms. Scott attended the Anderson County Underage Drinking Task Force inaugural meeting and planning session on September 24, 2013 and gave a verbal report to the Board. Ms. Scott stated it was a good meeting with opinions from all over the county. She stated Oliver Springs showed that their Board used the Tennessee Alcoholic Beverage Commission to conduct sting operations. All violators were before the board on the same day and all were fined. Problems seemed to be resolved after the board took firm action.

Deputy Chief Massengill stated it takes staffing to conduct sting operations and Chairman Tedford stated it also took agreement by the Juvenile Court Judge. Ms. Williams stated she was also at the meeting and the area cities wanted some uniformity in how beer boards took action.

Michael Foster, Allies for Substance Abuse Prevention, said he was at the meeting and Attorney General Dave Clark said he would like uniformity between the local governments in what action is taken against violations of beer rules. Mr. Foster invited the Board to the next meeting of the Task Force on October 24<sup>th</sup>.

**ADJOURNMENT**

Meeting adjourned at 1:26 p.m. upon agreement of all members present.

Respectfully submitted,

Barton Bailey, Secretary

SHOW CAUSE HEARING  
MATERIALS – GENERALLY

## SHOW CAUSE HEARINGS – GENERALLY

Section 4.D. of the Board's Rules and Procedures govern the procedure for show cause hearings, which shall be conducted as nearly as practicable in accordance with judicial tribunal proceedings.

In the past, the Beer Board has used the following procedure for show cause hearings:

1. The Chairman announces the reason for hearing, specifying the establishment's name and the incident(s) that resulted in the Board voting to hold the show cause hearing.
2. The Chairman swears in all witnesses – "Everyone who may give testimony, please come forward. Raise your right hand. Do you swear or affirm that the testimony you give in this hearing will be the truth, the whole truth and nothing but the truth?"
3. Testimony – The Board may hear testimony from the City and the establishment. Board members may ask questions of the witnesses. This is the establishment's opportunity to show cause as to why the Board should not take any negative action against the establishment's beer permit(s).
4. Discussion – After testimony, the Board discusses whether the establishment has shown cause as to why the Board should not take action against the beer permit. If a member feels the establishment has not shown sufficient reasons for the Board to not take action against the beer permit, then the motion would read as follows:

"I move that [name of establishment] HAS NOT SHOWN adequate cause as to why the Board should not take action against the beer permit."

If a member feels the establishment has shown sufficient cause, then the motion would read the same without the "not" inserted above.

"I move that [name of establishment] HAS SHOWN adequate cause as to why the Board should not take action against the beer permit."

If there is a majority vote that the establishment has not shown sufficient cause for the Board to not take negative action, the next decision for the Board is what action to take against the beer permit(s).

The Board may revoke or suspend a beer permit. A revocation is permanent removal of the beer permit. A suspension is temporary and can be effective for any time period up to eleven months and twenty-nine days. If a suspension is the decision, the Board may also choose to accept a civil penalty in lieu of said suspension (maximum. \$2,500 civil penalty per violation for sales of beer to a minor). An establishment has seven days to pay any civil penalty imposed or the suspension will take effect.

The Board is requested to be specific in your actions and specific as to the grounds for your actions.

A court reporter is provided by the City for all show cause hearings which enables a transcript of the hearing to be available should an establishment appeal the decision of the Board. Please speak clearly for the court reporter and do not speak over each other or witnesses. The court reporter can only be expected to transcribe what is said by one person at a time in order to provide, if needed for court purposes, a complete and accurate verbatim accounting of the hearing.

SHOW CAUSE HEARING  
MATERIALS – AUBREY’S INC.

## SHOW CAUSE HEARING # 2013-08

### Show Cause Hearing # 2013-08

**Aubrey's Inc.**

**481 S. Illinois Avenue**

**Class "C" Beer Permit # 1463, Approved: 10/8/2012**

**Owner: Aubrey Burleson**

**Managers: Aubrey Burleson and Jody Slimp (Approved 10/8/2012)**

At the September 9, 2013 meeting, the Oak Ridge Beer Permit Board unanimously voted to hold a Show Cause Hearing for Aubrey's Inc. regarding the sale of beer to a minor which occurred on March 18, 2013 as part of a minor compliance check conducted by the Tennessee Alcoholic Beverage Commission. The notice of the Show Cause Hearing was hand-delivered by Sergeant John Kelly, Oak Ridge Police Department, to Katie Jenkins on September 17, 2013. A copy of the notice is attached and labeled as Exhibit A (One Page).

Documentation from the TABC is attached and labeled as Exhibit B (Four Pages). The following information is provided based upon TABC documents:

- On March 18, 2013 an employee of Aubrey's served a minor (19 year old confidential informant) a Bud Light draft beer.
- The employee did check the minor's driver's license.
- The sale was in violation of state law (Tennessee Code Annotated §57-4-203(b)(1)(B))
- This is the first violation at Aubrey's for sale of beer to a minor by the TABC.
- Aubrey's paid \$1,500.00 to the state for the violation.

TABC Special Agent Derrick Dalton will be present for the hearing to answer any questions of the Board.

By City Code §8-712(1)(a), the Board has authority to revoke or suspend the beer permit for the sale of beer to a minor or to offer the imposition of a civil penalty (not to exceed \$2,500.00) in lieu of suspension. By City Code §8-712(3), if a civil penalty is imposed in lieu of suspension, the permittee has seven days to pay the civil penalty before the suspension shall be imposed and, if paid, the suspension is deemed withdrawn.

By City Code §8-712(9), prior suspensions and other disciplinary actions taken by the Board against a permittee may be considered by the Board for a determination of disciplinary action in any show cause hearing. A review of the beer permit file revealed no prior suspensions or disciplinary actions against Aubrey's for the Board to consider.

A decision of the Board to either suspend or revoke must be posted at the main entrance to the establishment and remain posted for the duration of the suspension or revocation.

CITY OF  
OAK RIDGE



ON BEHALF OF THE OAK  
RIDGE BEER PERMIT BOARD

POST OFFICE BOX 1 • OAK RIDGE, TENNESSEE 37831-0001

HAND-DELIVERED BY ORPD

September 13, 2013

Aubrey Burleson, Owner/Manager  
Jody Slimp, Manager  
Aubrey's Inc.  
481 S. Illinois Avenue  
Oak Ridge, Tennessee 37830

Re: Show Cause Hearing #2013-08 – November 18, 2013 – Notice to Appear

Mr. Burleson and Mr. Slimp,

On September 9, 2013, the Oak Ridge Beer Permit Board unanimously voted to hold a Show Cause Hearing for Aubrey's in response to communication the Board received from the Tennessee Alcoholic Beverage Commission (TABC) regarding a sale of beer to a minor (under the age of twenty-one) in violation of Tennessee Code Annotated §57-4-203(b)(1)(B) occurring on March 18, 2013. According to the TABC, the employee who served beer to the minor was Cody Brooks.

The Show Cause Hearing has been set for **Monday, November 18, 2013**, immediately following the regular meeting of the Board which begins at 12:00 noon. The meeting and the show cause hearing will both take place in the Training Room (Room 104) of the City's Municipal Building located at 200 S. Tulane Avenue. By City Code §8-712(1)(a), the Board has authority to revoke or suspend the beer permit for the sale of beer to a minor or impose a civil penalty up to \$2,500.00 in lieu of suspension.

The show cause hearing will be the business's opportunity to explain to the Board why negative action should not be taken against the beer permit. Owners and/or managers should attend. If the business wishes to do so, please provide me with a written response to the hearing no later than November 11, 2013 for inclusion in the Board's agenda packet. This response can be any information the business would like for the Board to know regarding the incident resulting the show cause hearing, any steps you have taken to prevent such incidents in the future, etc.

The business has the right to be represented by legal counsel at the hearing. If you have any questions regarding the show cause hearing process, please feel free to call my office at (865) 425-3530, however, this office cannot offer any legal advice or representation regarding the show cause hearing.

Sincerely,

Tammy M. Dunn  
Senior Staff Attorney/Staff Liaison to the Board

Delivered to: Aubrey's

Left the original with: KATIE JENKINS

Oak Ridge Police Department

17 SEPTEMBER 2013  
Date

STATE OF TENNESSEE  
ALCOHOLIC BEVERAGE COMMISSION  
CITATION

PAID 5/14/13  
# 19965076  
\$ 1500.00  
Nashville

FYI

To: Aubrey's  
481 South Illinois Ave  
Oak Ridge, TN 37830

Permit # 18086

RI 13-0317

TABC Report Date: 3-20-13

This establishment is in violation of the following statutes and/or rules governing the sale of alcoholic beverages by licensees: Sale of beer and/or malt beverages to a minor is a violation of TCA §57-4-203(b)(1)(B)

This violation(s) may be resolved by indicating the option you intend to exercise by circling either A or B below. Then sign this document and return it to the TABC at our Nashville address.

A. HEARING: If you do not agree with the violation(s) against you or wish to contest them, you may request a hearing to the TABC at the address stated below. At such a hearing, you may be represented by counsel, cross-examine witnesses, present your own proof and have the right to judicial review.

B. AGREEMENT: If you do not wish to contest the violation(s), you may agree to settle by accepting these particular terms: \$ 1500.00 Fine.

This offer will remain open for twenty (20) calendar days from the date noted below. By agreeing to settle this matter as set forth in paragraph B above, you are waiving your right to a hearing. When the TABC receives payment in full and this original citation signed by authorized agent of licensee, this TABC will consider this matter administratively closed. Existing criminal charges pending as a result of the same factual scenario which resulted in this citation are not affected by this agreement.

However, failure to respond within the aforementioned twenty (20) days by (1) requesting a hearing; (2) paying the fine in full; or (3) contacting this office to discuss the merits of the citation, will result in the matter being set for a hearing which could result in a default judgment and additional administrative costs. You or your attorney may wish to discuss the charge(s) with appropriate TABC staff. You may do so by calling the Nashville Office at (615) 741-1602. Mail payments or correspondence to:

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION  
226 CAPITOL BLVD., SUITE 300  
NASHVILLE, TN 37243-0755

APR 26 2013

\_\_\_\_\_  
Authorized Agent of Licensee (Date)

  
\_\_\_\_\_  
TABC Authorized Signature (Date)

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION  
LIQUOR BY THE DRINK/PRIVATE CLUB  
REPORT OF VIOLATION

DATE: 3/20/2013

RI:13-0317

TO: Mark Hutchens - CLEO

FROM: Derrick Dalton- SA

BUSINESS NAME: Aubrey's  
ADDRESS: 481 South Illinois Avenue  
CITY/ZIP: Oak Ridge, 37830  
LICENSE NO.: 18086  
EXPIRATION DATE: October 25, 2013  
MANAGER/CLERK: (ON DUTY): Cody Brooks

**STATE LAWS:**

- Warning Signs at Retail Establishments (Pregnancy Sign) TCA 57-1-211
- Restaurant Requirements (Seating Days of Operation) 57-4-102(29)(A)
- Expiration of Licenses TCA 57-4-201 [Ref: TCA 57-3-213]
- Exterior Signs TCA 57-4-203(a)
- Sales To Minors Prohibited TCA 57-4-203(b)(1)(A){Liquor}
- Sales To Minors Prohibited TCA 57-4-203(b)(1)(B){Beer}
- Selling to Intoxicated Customer TCA 57-4-203(c)
- Hours of Sale TCA 57-4-203(d)
- Restrictions on Sealed or Unsealed Packages, or Gifts TCA 57-4-203(e)
- Ownership of Alcoholic Beverages Sold TCA 57-4-203 (g)
- Server Permit Violation TCA 57-4-203(h)
- Prohibited Sexual or Pornographic Conduct TCA 57-4-204
- Buying Liquor From Non-Wholesaler TCA 57-3-404(b)
- Possession Gambling Device(s) TCA 39-17-505(a)
- Health Inspection Displayed TCA 68-14-317(d)
- Delinquent in Filing and/or Paying LBD Taxes Three (3) Times During Licensed Year TCA 57-4-304(b)(1)
- Collection of Taxes, Bond of Licensee TCA 57-4-302 (3)(A)
- Other:

**RULES & REGULATIONS:**

**Liquor By the Drink:**

- Advertising 0100-1-.01
- Business Management Restricted 0100-1-.03(1)
- Consumption on Licensed Premises 0100-1-.03(2)
- Free Access to Licensed Premises 0100-1-.03(3)
- Refusal of Cooperation 0100-1-.03(4)
- Licensees Not to Combine 0100-1-.03(5)
- Sanitary And Fire Standards 0100-1-.03(7)
- On-Premises Sale By Bottle Restricted 0100-1-.03(8)
- On-Premises Employees' Activities Restricted 0100-1-.03(9)
- Restriction As To Age of Dispensing Employees 0100-1-.03(10)
- Dual Interests Prohibited 0100-1-.03(11)
- License Surrender if Business Discontinued 0100-1-.03(13)
- Prohibited Practices 0100-1-.03(14)
- Happy Hour Restrictions 0100-1-.03(15)
- Business Name Change 0100-1-.03(16)
- Display of License 0100-1-.03(17)
- Seating 0100-01.03(19)
- Limitation on Credit Sales 0100-6-.04
- Other:

**Private Club:**

- Change of Manager 0100-1-.05(4)
- Membership Application Procedures 0100-1-.05(7)(a);
- Complete Membership Roster 0100-1-.05(8)(a)
- Dispensing to Non-Members 0100-1-.05(8)(c)
- Membership (100 Members) 0100-1-.05 (8)(f)
- Use of DBA Name 0100-1-.05 (8)(g)

**Caterer:**

- Catering License 0100-01-.06(1)
- Server's Permit Card 0100-01-.06(2)
- LBD Where Such Sales Authorized 0100-01-.06(3)
- Alcohol without Food 0100-01-.06(4)
- Notice of Catered Event 0100-01-.06(5)
- Alcohol Transportation 0100-01-.06(7)

**Special Occasion Permits:**

- Two Week Notice 0100-01-.07(2)

NARRATIVE (Should include all pertinent facts and details relating to violation for which cited): SEE ATTACHED NARRATIVE

AD 3/21/13

Aubrey's  
481 South Illinois Avenue  
Oak Ridge, TN 37830  
Permit #: 18086

RI13-0317

**Sales to Minors Prohibited TCA 57-4-203 (b)(1)(B) (Beer):** On March 18, 2013, Special Agents Derrick Dalton and Wade Hurst with the Tennessee Alcoholic Beverage and an underage confidential informant (I13-0004C) conducted a minor compliance check at the Aubrey's, in Oak Ridge, Tennessee.

At approximately 9:10 PM on March 18, 2013, a confidential informant (I13-0004C) who is nineteen (19) years of age, date of birth 07/06/1993, entered Aubrey's while monitored by SA Derrick Dalton. Upon entry to Aubrey's Cody Brooks **did** check confidential informant's identification and served the underage informant a Bud Light draft beer. Cody Brooks was issued a citation by SA Dalton and is scheduled to appear at the General Sessions Court of Anderson County on March 25, 2013, at 9:00 AM to be arraigned on aforementioned charge.

TCA 57-4-203 (b)(1) (B) states that any licensee engaging in business regulated hereunder or any employee thereof who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given any beer or malt beverage as defined in TCA 57-6-102 to any person under twenty-one (21) years of age is guilty of a Class A Misdemeanor.

**See Attached:**

No Previous Violations

Tennessee Uniform Citation

Pictures of Underage Confidential Informant - I13-0004C

Case Time and Expense Report

PRINT DATE:     
**COMPLAINT - AFFIDAVIT**  DOS  PD  SO  OTHER **TABC** AGENCY I.D. NO. **0191800**

THE UNDERSIGNED, BEING DULY SWORN UPON HIS OATH, DEPOSES:

NAME (FIRST) **Cody** (MIDDLE) **Alicia** (LAST) **Brook** DATE OF BIRTH MO. DAY YR. RACE **W** SEX **F**  
 ADDRESS **[REDACTED]** TN RESIDENT?  YES  NO SEAT BELT?  YES  NO  
 CITY **[REDACTED]** STATE **TN** ZIP CODE **[REDACTED]** SOCIAL SECURITY NUMBER **[REDACTED]**  
 DRIVER LICENSE NUMBER **[REDACTED]** CLASS/TYPE LICENSE **D** STATE **TN** EXPIRATION DATE MO. DAY YR. TELEPHONE NUMBER **[REDACTED]**  
 OWNED  LEASED  CARRIER NAME ADDRESS  MC  CMV  HAZ  ACCIDENT  MAT

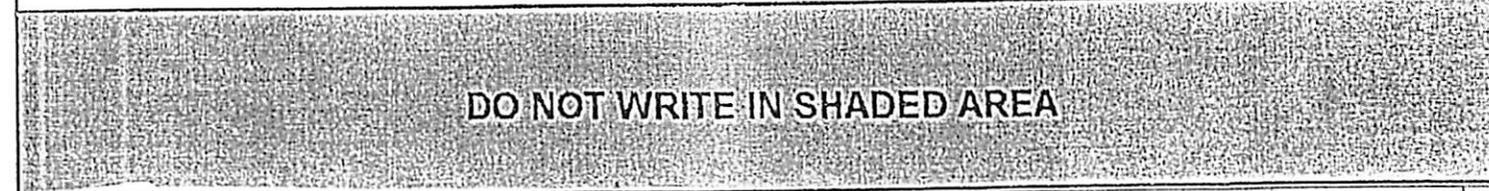
DID UNLAWFULLY OPERATE/PARK A MOTOR VEHICLE:  
 MAKE MODEL YEAR COLOR LICENSE PLATE NUMBER STATE YEAR  
 UPON STREET/HIGHWAY S.R. # TRAVEL DIR.  N  S  E  W M.M. # CITY/COUNTY HIGHWAY TYPE  2-L  3-L  4-L  DIV.  I-110 AREA  BUSINESS  SCHOOL  RES.  RURAL

THE FORESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:

01  SPEEDING \_\_\_\_\_ MPH IN \_\_\_\_\_ SPEED LIMIT  ZONE  PACING  RADAR  OTHER 591  OVERWEIGHT AXLE  
 02  RECKLESS DRIVING 20  DUI BAC \_\_\_\_\_ 103  REGISTRATION LAW  
 03  TRAFFIC CONTROL DEVICE 22  REV/SUS/CAN DL 393  CHILD RESTRAINT  
 OTHER: T.C.A. **57-4-203** ORDINANCE: **State to A Minor**

On March 18, 2013 at approximately 09:24 upon the Tennessee Alcoholic Beverage Commission conducted a minor compliance operation at Abbey's 481 South Illinois Ave Oak Ridge TN. The Defendant served a bud light draft beer to a confidential informant. The minor's identification was not checked by the Defendant. The informant's state of Tennessee driver's license showed that her date of birth was (07-06-1993) age (19). The above incident occurred in Anderson County TN.  
 Knoxville **[REDACTED]**

THE UNDERSIGNED FURTHER STATES THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE, THAT THE PERSON NAMED ABOVE COMMITTED THE OFFENSE HEREIN SET FORTH, CONTRARY TO LAW.  
 THIS **18** DAY OF **March** 20 **13** TIME **9:24**  AM  PM **Sergeant Derek R. Diller** 324  
 RANK OFFICER NAME (PRINT) BADGE/ID NO.



IN THE **1**  GENERAL SESSIONS COURT OF **Anderson** COUNTY NO. **[REDACTED]** IN THE CITY OF **Oak Ridge** NO. **[REDACTED]**  
**2**  JUVENILE COURT COURT ON **Mon** THE **25** DAY OF **March** 20 **13** TIME **9**  AM  PM

NOTICE: FAILURE TO APPEAR IN COURT ON THE DATE ASSIGNED BY THIS CITATION OR AT THE APPROPRIATE POLICE STATION FOR BOOKING AND PROCESSING WILL RESULT IN YOUR ARREST FOR A SEPARATE CRIMINAL OFFENSE WHICH IS PUNISHABLE BY A JAIL SENTENCE OF ELEVEN (11) MONTHS AND TWENTY-NINE (29) DAYS AND/OR A FINE OF UP TO FIFTY THOUSAND FIVE HUNDRED DOLLARS (\$2,500).

UNDERSTAND THE ABOVE NOTICE, AND THAT MY SIGNATURE IS NOT AN ADMISSION OF GUILT.  
 VIOLATOR'S SIGNATURE **Cody Brook**

SHOW CAUSE HEARING  
MATERIALS – RUBY TUESDAY  
RESTAURANT

## SHOW CAUSE HEARING # 2013-10

### Show Cause Hearing # 2013-10

**Ruby Tuesday Restaurant**

**375 S. Illinois Avenue**

**Class "C" Beer Permit # 1151, Approved: 11/8/1993**

**Owner: Ruby Tuesday, Inc. (RTI)**

**Managers: Matthew Morrison (Approved 12/10/2012) & Ashley Tyler (Approved 10/14/13)**

At the September 9, 2013 meeting, the Oak Ridge Beer Permit Board unanimously voted to hold a Show Cause Hearing for the Ruby Tuesday regarding the sale of beer to a minor which occurred on March 18, 2013 as part of a minor compliance check conducted by the Tennessee Alcoholic Beverage Commission. The notice of the Show Cause Hearing was hand-delivered by Sergeant John Kelly, Oak Ridge Police Department, to Joseph Kirkpatrick on September 17, 2013. A copy of the notice is attached and labeled as Exhibit A (One Page).

Documentation from the TABC is attached and labeled as Exhibit B (Three Pages). The following information is provided based upon TABC documents:

- On March 18, 2013 an employee of the Ruby Tuesday served a minor (19 year old confidential informant) a Bud Light draft beer.
- The employee did check the minor's driver's license.
- The sale was in violation of state law (Tennessee Code Annotated §57-4-203(b)(1)(B))
- This is the first violation at the Ruby Tuesday for sale of beer to a minor by the TABC.
- The Ruby Tuesday paid \$1,500.00 to the state for the violation.

TABC Special Agent Derrick Dalton will be present for the hearing to answer any questions of the Board.

By City Code §8-712(1)(a), the Board has authority to revoke or suspend the beer permit for the sale of beer to a minor or to offer the imposition of a civil penalty (not to exceed \$2,500.00) in lieu of suspension. By City Code §8-712(3), if a civil penalty is imposed in lieu of suspension, the permittee has seven days to pay the civil penalty before the suspension shall be imposed and, if paid, the suspension is deemed withdrawn.

By City Code §8-712(9), prior suspensions and other disciplinary actions taken by the Board against a permittee may be considered by the Board for a determination of disciplinary action in any show cause hearing. A review of the beer permit file revealed no prior suspensions or disciplinary actions against the Ruby Tuesday for the Board to consider.

A decision of the Board to either suspend or revoke must be posted at the main entrance to the establishment and remain posted for the duration of the suspension or revocation.

# CITY OF OAK RIDGE



ON BEHALF OF THE OAK  
RIDGE BEER PERMIT BOARD

POST OFFICE BOX 1 • OAK RIDGE, TENNESSEE 37831-0001

## HAND-DELIVERED BY ORPD

September 13, 2013

Matthew Morrison, Manager  
Ruby Tuesday Restaurant  
375 S. Illinois Avenue  
Oak Ridge, Tennessee 37830

Re: Show Cause Hearing #2013-10 – November 18, 2013 – Notice to Appear

Mr. Morrison,

On September 9, 2013, the Oak Ridge Beer Permit Board unanimously voted to hold a Show Cause Hearing for Ruby Tuesday Restaurant in response to communication the Board received from the Tennessee Alcoholic Beverage Commission (TABC) regarding a sale of beer to a minor (under the age of twenty-one) in violation of Tennessee Code Annotated §57-4-203(b)(1)(B) occurring on March 18, 2013.

The Show Cause Hearing has been set for **Monday, November 18, 2013**, immediately following the regular meeting of the Board which begins at 12:00 noon. The meeting and the show cause hearing will both take place in the Training Room (Room 104) of the City's Municipal Building located at 200 S. Tulane Avenue. By City Code §8-712(1)(a), the Board has authority to revoke or suspend the beer permit for the sale of beer to a minor or impose a civil penalty up to \$2,500.00 in lieu of suspension.

The show cause hearing will be the business's opportunity to explain to the Board why negative action should not be taken against the beer permit. Owners and/or managers should attend. If the business wishes to do so, please provide me with a written response to the hearing no later than November 11, 2013 for inclusion in the Board's agenda packet. This response can be any information the business would like for the Board to know regarding the incident resulting the show cause hearing, any steps you have taken to prevent such incidents in the future, etc.

The business has the right to be represented by legal counsel at the hearing. If you have any questions regarding the show cause hearing process, please feel free to call my office at (865) 425-3530, however, this office cannot offer any legal advice or representation regarding the show cause hearing.

Sincerely,

Handwritten signature of Tammy M. Dunn in black ink.

Tammy M. Dunn  
Senior Staff Attorney/Staff Liaison to the Board

Delivered to: Ruby Tuesday Restaurant

Left the original with: \_\_\_\_\_

Handwritten signature of Joseph J. Kirkpatrick in black ink.

\_\_\_\_\_  
Oak Ridge Police Department

17-SEPTEMBER 2013  
\_\_\_\_\_  
Date

STATE OF TENNESSEE  
ALCOHOLIC BEVERAGE COMMISSION  
CITATION

Paid 5/7/13  
#09989952  
\$1500.00  
Nashville

To: Ruby Tuesday  
375 South Illinois Ave  
Oak Ridge, TN 37830

FYI

Permit # 18054

RI 13-0319

TABC Report Date: 3-20-13

This establishment is in violation of the following statutes and/or rules governing the sale of alcoholic beverages by licensees: Sale of beer and/or malt beverages to a minor is a violation of TCA §57-4-203(b)(1)(B)

This violation(s) may be resolved by indicating the option you intend to exercise by circling either A or B below. Then sign this document and return it to the TABC at our Nashville address.

A. HEARING: If you do not agree with the violation(s) against you or wish to contest them, you may request a hearing to the TABC at the address stated below. At such a hearing, you may be represented by counsel, cross-examine witnesses, present your own proof and have the right to judicial review.

B. AGREEMENT: If you do not wish to contest the violation(s), you may agree to settle by accepting these particular terms: \$ 1500.00 Fine.

This offer will remain open for twenty (20) calendar days from the date noted below. By agreeing to settle this matter as set forth in paragraph B above, you are waiving your right to a hearing. When the TABC receives payment in full and this original citation signed by authorized agent of licensee, this TABC will consider this matter administratively closed. Existing criminal charges pending as a result of the same factual scenario which resulted in this citation are not affected by this agreement.

However, failure to respond within the aforementioned twenty (20) days by (1) requesting a hearing; (2) paying the fine in full; or (3) contacting this office to discuss the merits of the citation, will result in the matter being set for a hearing which could result in a default judgment and additional administrative costs. You or your attorney may wish to discuss the charge(s) with appropriate TABC staff. You may do so by calling the Nashville Office at (615) 741-1602. Mail payments or correspondence to:

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION  
226 CAPITOL BLVD., SUITE 300  
NASHVILLE, TN 37243-0755

\_\_\_\_\_  
Authorized Agent of Licensee (Date)

S. Keith Bell  
TABC Authorized Signature (Date)

APR 26 2013

**TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**  
**LIQUOR BY THE DRINK/PRIVATE CLUB**  
**REPORT OF VIOLATION**

DATE: 3/20/2013

RI:13-0319

TO: Mark Hutchens - CLEO

FROM: Derrick Dalton- SA

BUSINESS NAME: Ruby Tuesday  
ADDRESS: 375 South Illinois Avenue  
CITY/ZIP: Oak Ridge, 37830  
LICENSE NO.: 18054  
EXPIRATION DATE: December 2, 2013  
MANAGER/CLERK: (ON DUTY):

**STATE LAWS:**

- Warning Signs at Retail Establishments (Pregnancy Sign) TCA 57-1-211
- Restaurant Requirements (Seating Days of Operation) 57-4-102(29)(A)
- Expiration of Licenses TCA 57-4-201 [Ref: TCA 57-3-213]
- Exterior Signs TCA 57-4-203(a)
- Sales To Minors Prohibited TCA 57-4-203(b)(1)(A){Liquor}
- Sales To Minors Prohibited TCA 57-4-203(b)(1)(B){Beer}
- Selling to Intoxicated Customer TCA 57-4-203(c)
- Hours of Sale TCA 57-4-203(d)
- Restrictions on Sealed or Unsealed Packages, or Gifts TCA 57-4-203(e)
- Ownership of Alcoholic Beverages Sold TCA 57-4-203 (g)
- Server Permit Violation TCA 57-4-203(h)
- Prohibited Sexual or Pornographic Conduct TCA 57-4-204
- Buying Liquor From Non-Wholesaler TCA 57-3-404(b)
- Possession Gambling Device(s) TCA 39-17-505(a)
- Health Inspection Displayed TCA 68-14-317(d)
- Delinquent in Filing and/or Paying LBD Taxes Three (3) Times During Licensed Year TCA 57-4-304(b)(1)
- Collection of Taxes, Bond of Licensee TCA 57-4-302 (3)(A)
- Other:

**RULES & REGULATIONS:**

**Liquor By the Drink:**

- Advertising 0100-1-.01
- Business Management Restricted 0100-1-.03(1)
- Consumption on Licensed Premises 0100-1-.03(2)
- Free Access to Licensed Premises 0100-1-.03(3)
- Refusal of Cooperation 0100-1-.03(4)
- Licensees Not to Combine 0100-1-.03(5)
- Sanitary And Fire Standards 0100-1-.03(7)
- On-Premises Sale By Bottle Restricted 0100-1-.03(8)
- On-Premises Employees' Activities Restricted 0100-1-.03(9)
- Restriction As To Age of Dispensing Employees 0100-1-.03(10)
- Dual Interests Prohibited 0100-1-.03(11)
- License Surrender if Business Discontinued 0100-1-.03(13)
- Prohibited Practices 0100-1-.03(14)
- Happy Hour Restrictions 0100-1-.03(15)
- Business Name Change 0100-1-.03(16)
- Display of License 0100-1-.03(17)
- Seating 0100-01.03(19)
- Limitation on Credit Sales 0100-6-.04
- Other:

**Private Club:**

- Change of Manager 0100-1-.05(4)
- Membership Application Procedures 0100-1-.05(7)(a):
- Complete Membership Roster 0100-1-.05(8)(a)
- Dispensing to Non-Members 0100-1-.05(8)(c)
- Membership (100 Members) 0100-1-.05 (8)(f)
- Use of DBA Name 0100-1-.05 (8)(g)

**Caterer:**

- Catering License 0100-01-.06(1)
- Server's Permit Card 0100-01-.06(2)
- LBD Where Such Sales Authorized 0100-01-.06(3)
- Alcohol without Food 0100-01-.06(4)
- Notice of Catered Event 0100-01-.06(5)
- Alcohol Transportation 0100-01-.06(7)

**Special Occasion Permits:**

- Two Week Notice 0100-01-.07(2)

NARRATIVE (Should include all pertinent facts and details relating to violation for which cited): SEE ATTACHED NARRATIVE

TOP 3/21/13

**Ruby Tuesday**  
375 South Illinois Avenue  
Oak Ridge, TN 37830  
Permit #: 18054

RI13-0319

**Sales to Minors Prohibited TCA 57-4-203 (b)(1)(B) (Beer):** On March 18, 2013, Special Agents Derrick Dalton and Wade Hurst with the Tennessee Alcoholic Beverage and an underage confidential informant (I13-0004C) conducted a minor compliance check at the Ruby Tuesday, in Oak Ridge, Tennessee.

At approximately 8:05 PM on March 18, 2013, a confidential informant (I13-0004C) who is nineteen (19) years of age, date of birth 07/06/1993, entered Ruby Tuesday while monitored by SA Derrick Dalton. Upon entry to Ruby Tuesday **did check** confidential informant's identification and served the underage informant a Bud Light draft beer. **was issued a citation by SA Dalton and is scheduled to appear at the General Sessions Court of Anderson County on March 25, 2013, at 9:00 AM to be arraigned on aforementioned charge.**

TCA 57-4-203 (b)(1) (B) states that any licensee engaging in business regulated hereunder or any employee thereof who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given any beer or malt beverage as defined in TCA 57-6-102 to any person under twenty-one (21) years of age is guilty of a Class A Misdemeanor.

**See Attached:**

Previous Violations

Tennessee Uniform Citation

Pictures of Underage Confidential Informant - I13-0004C

Case Time and Expense Report

NEW/OLD BUSINESS  
MATERIALS

**Proposed City Code Amendment – Deletion of Existing City Code §8-709 and Complete Replacement  
Bold/Strikethrough Shows Changes from the October 14, Meeting**

City Code § 8-709. *Successful Completion of Instruction Program Required.*

- (1) Requirements. The permittee shall not allow any ~~employee~~ **person** to sell or serve beer unless the ~~employee~~ **person** has attended and successfully completed an alcoholic beverage sale or server instruction program approved by the Tennessee Alcoholic Beverage Commission within the past three (3) years. Further, no ~~employee~~ **person** of a permittee shall sell or serve beer unless the ~~employee~~ **person** has attended and successfully completed an alcoholic beverage sale or server instruction program approved by the Tennessee Alcoholic Beverage Commission within the past three (3) years. **New hires have thirty (30) days from the date of hire to obtain proper certification; however, new hires can sell/serve beer during this timeframe under the supervision of a certified person employed by the permittee.**
- (2) Timeframe for Completion. Existing employees of a permittee have six (6) months from [*insert the effective date of this ordinance*] to obtain proper certification. ~~New employees of a permittee have thirty (30) days from the date of hire to obtain proper certification.~~ After initial certification, employees must maintain certification at all times while selling or serving beer.
- (3) Extension. Upon application and good cause shown, the Board may grant an extension up to an additional six (6) months for an existing permittee to achieve full compliance.
- (4) Proof of Compliance. Documentation demonstrating compliance with the terms of this section shall be maintained on the premises and shall be available for inspection by the City at all times beer is being served or sold.
- (5) Exemption. ~~Employees~~ **Persons** holding a valid Tennessee Alcoholic Beverage Commission certification or license are exempt from the terms of this section.

Note: The Board's amendment to change the word "employee" to "person" does not read cleanly in all subsections. (See second sentence of subsection (1) and notice no language change shown for subsection (2)) The Board may need to revisit this change to possibly amend certain subsections to read as "persons employed by a permittee" or something similar.