

Town of Franklin

Town Administrator
Tel: (508) 520-4949

Fax: (508) 520-4903



355 East Central Street
Franklin, Massachusetts 02038-1352

August 10, 2016

Ms. Kimberly Mary Orso
Joe's American Bar & Grill
466 King Street
Franklin, MA 02038

Re: Failed Compliance Check – Hearing Notice

Dear Ms. Orso:

This is a notice that the Town Council as the Local Licensing Authority for the Town of Franklin will hold a hearing pursuant to provision of M.G.L. Chapter 138 §64 to determine whether to modify, suspend, or revoke your alcoholic beverages license for violation of Massachusetts General Law, Chapter 138, §34: Sale, Delivery, or furnishing of an alcoholic beverage to a person under the age of twenty-one, based upon an incident which, according to the Franklin Police, occurred on Thursday, August 4, 2016 at approximately 6:38 PM at Joe's American Bar & Grill, 466 King Street, Franklin, MA 02038.

The hearing is scheduled to take place on Wednesday, September 7, 2016 at 7:10 PM in the Council Chambers of the Municipal Building, Second Floor, 355 East Central Street, Franklin, MA 02038. You are entitled to attend and to present evidence of your behalf.

Please feel free to call me at 508-520-4949 if you have any questions.

Sincerely,

Maxine Kinhart
Administrative Assistant

Cc: TJ Lynch, Police Chief
Town Council Members





FRANKLIN POLICE DEPARTMENT

Thomas J. Lynch, Chief of Police
James A. Mill, Deputy Chief of Police
911 Panther Way, Franklin, MA 02038
Telephone: (508) 528-1212
Fax: (508) 520-7950
www.franklinpolice.com

NOTICE OF VIOLATION

LICENSEE NAME: Joes American Bar & Grill

ADDRESS: 466 King St, Franklin, MA 02038

THIS IS TO NOTIFY YOU THAT ON Thursday August 4, 2016 **AT APPROXIMATELY** 6:38 P.M., **YOUR LICENSED ESTABLISHMENT WAS INVESTIGATED BY OFFICERS OF THE FRANKLIN POLICE DEPARTMENT, DURING WHICH TIME IT IS ALLEGED THAT YOU VIOLATED:**

204 CMR 2.05 (2) PERMITTING AN ILLEGALITY ON THE LICENSED PREMISES, TO WIT: CHAPTER 138, SECTION 34, SALE OR DELIVERY OF AN ALCOHOLIC BEVERAGE TO A PERSON UNDER TWENTY-ONE YEARS OF AGE.

UNDER MGL, CHAPTER 30A, YOU HAVE THE RIGHT TO A HEARING ON THIS MATTER BEFORE THE LICENSING AUTHORITY REGARDING THIS VIOLATION.

YOU WILL BE NOTIFIED VIA CERTIFIED MAIL TO APPEAR FOR A HEARING BEFORE THE LICENSING AUTHORITY (FRANKLIN TOWN COUNCIL).

SERVICE IN HAND BY: Lt. M. Manocchio 44 DATE: 8/8/16
OFFICER

RECEIVED BY: [Signature] DATE: 8/8/16
LICENSEE REPRESENTATIVE

Michael Botelho
General Manager

Franklin Police Department
911 Panther Way
Franklin, MA 02038
508 528 1212
Incident Report



Incident Number: 2016000022826
File No: N/A
Dispatch Incident Number: 2016000022826
Print Date: August 8, 2016
Printed By: mm01

Incident Information										
Occurred On/From	Day of Week	Date	Time	Occurred To	Day of Week	Date	Time	Reported On	Date	Time
	Thurs	08/04/2016	6:53:11PM		Thurs	08/04/2016	6:53:11PM	→	8/4/2016	6:53:11PM
Reported As Liquor, Sale To Minor			Incident Type - Primary Liquor, Sale to Minor			Arresting Officer				
Incident Address 466 KING, FRANKLIN, MA 02038							Reporting Officer Sergeant Christopher Spillane (sc01)			
Sector EAS		Stat. Area East Statistical Area		Sub Stat. Area		Census Tract		Landmark		
Business Name JOE'S AMERICAN BAR & GRILL				Incident Types - Other				Action Taken REPORT		

Related Incident Summary			
Incident No.	Date	Nature	Notes
No Related Incidents reported for Incident #: 2016000022826			

Associated Persons Summary						
Type	Name (Last, First, MI)	Date of Birth	Sex	Home Phone #	Cell Phone #	Work Phone #
INDIVIDUAL	BEINARS, VICTORIA E	12/18/1993	F	N/A	N/A	N/A
Address: 390 SOUTH ST, FOXBOROUGH, MA 02035						
INDIVIDUAL	PETERSEN, DAVID M	2/22/1986	M	N/A	N/A	N/A
Address: 7 FORBUSH MILL RD, BOLTON, MA 01740-1273						

Associated Businesses Summary			
Type	Name	Primary Phone #	Secondary Phone #
No Associated Businesses reported for Incident #: 2016000022826			

Involved Officers			
Officer Title	Officer Name	Officer Type	Division
Sergeant	Christopher J Spillane	Reporting Officer	Uniform Patrol Division
Sergeant	Christopher J Spillane	Responding Officer	Uniform Patrol Division

IBR/UCR Offenses				
Offense Number	IBR Type	Chapter	Section	Statute ID / IBR Type Description
No Incident Offenses Recorded for Incident #: 2016000022826				

Complaint Charges				
Seq #	Chapter	Section	Name (Last, First, MI)	Description of Offense
No Complaint Offenses Recorded for Incident #: 2016000022826				

Vehicle Info					
Reg Plate - State (Year)	Vehicle Year, Make, Model	VIN	Primary Color	Second Color	Insurance Co.
No Vehicle Info Recorded for Incident #: 2016000022826					

Property
No Property Info reported for Incident #: 2016000022826

Citations					
Citation No	Code	Date	Status	Statute	Description
No Citations reported for Incident #: 2016000022826					

Permits					
Permit No	Type	Issue Date	Expire Date	Status	Issued To/Notes
No Permits recorded for Incident #: 2016000022826					

Franklin Police Department
911 Panther Way
Franklin, MA 02038
508 528 1212
Incident Report



Incident Number: 2016000022826
File No: N/A
Dispatch Incident Number: 2016000022826
Print Date: August 8, 2016
Printed By: mm01

Narratives for Incident Number 2016000022826 ? Yes

Other Narratives not authorized for print? None

Narratives this user authorized to print:

Narrative by: Sergeant Christopher Spillane (sc01) Division: Uniform Patrol Division

<u>Date & Time</u>	<u>Narrative Description</u>	<u>Entered by</u>	<u>Status</u>	<u>Reviewed by</u>	<u>Last Edit Date</u>
08/04/2016 19:24		Sergeant Christopher Spillane (sc01)	Open		08/04/2016

On August 4, 2016 the Franklin Police Department conducted Alcohol Compliance checks of establishments that serve or sell alcoholic beverages in the town of Franklin. Officer Mucciarone and myself (Sgt Chris Spillane), were working with our under age decoy, identified as Sam Hanson (18 yrs of age 6/21/98). At approximately 6:38 pm, we were conducting a check of Joe's American Bar and Grill located at 466 King St in the town of Franklin. The underage decoy was handed a \$20.00 bill and was advised to order a Budweiser Light bottle.

Approximately 5 minutes after entering the establishment, the decoy exited the front door and gave us the signal that he was served. He approached our unmarked police vehicle and handed me the remaining change from the \$20.00 bill, which was \$14.20. The decoy stated that he was served at the bar, by the young blonde bartender. At this time, myself and officer Mucciarone entered the establishment and proceeded to the bar area. We identified the employee described and approached her. We identified ourselves as police officers and discussed the nature of our visit. The Joe's American Bar and Grill employee was identified as Victoria Beinars (12/18/93), she provided us with a MA license to confirm her identity. We also spoke with the manager, identified as David Petersen (2/22/86).

Petersen was advised of the procedure of our Compliance checks and that his establishment was in violation. Petersen was advised that he would be receiving paper work from the Town Council regarding the violation. All paperwork has been completed and forwarded to Lt. Mark Manocchio for processing.

Sgt. Chris Spillane

Signature - Reporting Officer

Signature - Reviewing Officer

BUYER REPORT

Franklin Police Department

Date of Attempt: 8/4/16 Time in: 6:38 Time out: 6:52 Case No. _____

Name of Business JOES AMERICAN BAR

Address 466 KING ST

My name is SAM HANSON

I am 18 years of age. My date of birth is: 06/21/98

I was born in DARLINGTON UK
(City) (State)

PURCHASE

I purchased, 1 bud lite, an alcoholic beverage and paid \$ 20 to the seller described below.

Change: \$4.40

I was () was not ☒ questioned as to my age.

I was () was not ☒ asked for an ID.

REFUSAL TO SELL

I attempted to purchase _____, an alcoholic beverage, but the seller:

() refused to sell to me.

() asked for an ID and when I gave my excuse for not having an ID refused to sell to me.

() asked my age and when I said my true age refused to sell to me.

SELLER DESCRIPTION

The clerk/cashier/waitperson/bartender is: (Describe)

Male _____ Female ☒ Hair color Blonde Shirt/Top color _____

Trousers/dress/bottom color _____ Height _____ Weight _____ Age _____

Other (ID/name badge, etc.) WORKING behind bar

At the time of the purchase I did not possess nor did I display any form of written identification.

I have read the above statement and all facts are true and correct.

Print Name SAM HANSON Signature [Signature] Date 8/4/16

Witnessing Officer:

Print Name Chris Spillane Signature [Signature] Date 8/4/16

OFFICER REPORT

Franklin Police Department

I, Sgt. Chris Spillane, after learning an employee of Joe's American Bar and Grill completed a purchase of an alcoholic beverage to an under 21 year old operative during a compliance check mobilization, did make contact and interviewed the below named employee who made the sale:

Employee (clerk/cashier/waitperson/bartender) Information

Name Victoria Beinares Operator License # _____

Address 390 South St Foxboro MA

Phone Number _____

Date of Birth 12/18/93

Officer:

Signature Sgt C Sp

Date 8/4/16

Franklin Police Department
911 Panther Way
Franklin, MA 02038
508 528 1212
Incident Report



Incident Number: 2011000016723
File No: N/A
Dispatch Incident Number: 2011000016761
Print Date: August 8, 2016
Printed By: lt02

Incident Information										
Occurred On/From	Day of Week	Date	Time	Occurred To	Day of Week	Date	Time	Reported On	Date	Time
	Fri	07/29/2011	8:25:00PM		Fri	07/29/2011	8:25:00PM	→	7/29/2011	8:25:24PM
Reported As			Incident Type - Primary			Arresting Officer				
Liquor, Sale To Minor			Liquor, Sale to Minor							
Incident Address						Reporting Officer				
466 KING, FRANKLIN, MA 02038						Detective Michael Kenney (km02)				
Sector		Stat. Area		Sub Stat. Area		Census Tract		Landmark		
EAS		East Statistical Area								
Business Name				Incident Types - Other				Action Taken		
JOE'S AMERICAN BAR & GRILL								LOGGED		

Associated Persons Summary						
Type	Name (Last, First, MI)	Date of Birth	Sex	Home Phone #	Cell Phone #	Work Phone #
INDIVIDUAL	PINTO, CYNTHIA	5/6/1979	F	N/A	N/A	N/A
Address:		13 RAYNER STREET, BLACKSTONE, MA 01504				

Involved Officers			
Officer Title	Officer Name	Officer Type	Division
Detective	Michael W Kenney	Reporting Officer	Detective Division, Share
Detective	Michael W Kenney	Responding Officer	Detective Division, Share

Narratives for Incident Number 2011000016723 ? Yes

Other Narratives not authorized for print? None

Narratives this user authorized to print:

Narrative by: Detective Michael Kenney (km02) Division: Detective Division, Share

<u>Date & Time</u>	<u>Narrative Description</u>	<u>Entered by</u>	<u>Status</u>	<u>Reviewed by</u>	<u>Last Edit Date</u>
07/29/2011 21:35		Detective Michael Kenney (km02)	Open		07/29/2011

July 29, 2011

On this night, Ptl. Grover and I were working an Alcohol Compliance Check of specific establishments that are authorized to sell alcohol beverages. Ptl. Grover and I were working with an underage (under 21 y.o.) operative who is given specific instructions on protocol and safety. The operative is actually 20 years old. The premise of this operation is to insure that the specific establishments are adhering to selling alcoholic beverages to Massachusetts residences who are at least 21 years of age as confirmed by asking the buyer for a Mass. License and/or I.D.

At 20:24 hrs., on this date, the operative was sent into the Joes American Bar & Grill, 466 King St., and asked to be served a Budweiser Bottled beer from the bar. The operative was asked for his license, however, the server did not properly identify the correct age. As a result, the underage operative was improperly served an alcoholic beverage.

Ptl. Grover and I entered the establishment, identified ourselves, and notified the manager and the server of the failure of the compliance check. The server is identified as: Cynthia Pinto, 13 Rayner St., Blackstone, Ma., DOB-5/6/1978.

Det. Michael Kenney

Signature - Reporting Officer

Signature - Reviewing Officer

Franklin Police Department
911 Panther Way
Franklin, MA 02038
508 528 1212
Incident Report



Incident Number: 2011000016723
File No: N/A
Dispatch Incident Number: 2011000016761
Print Date: August 8, 2016
Printed By: lt02

Incident Dispatcher Remarks:

Create User ID: system

Date & Time

08/01/2011 16:27:41

LIQUOR SALE VIOLATION.

**FRANKLIN TOWN COUNCIL
MINUTES OF MEETING**

September 14, 2011

A meeting of the Town Council was held on Wednesday, September 14, 2011 at the Franklin Municipal Building, 355 East Central Street, Franklin, Massachusetts. Councilors present; Scott Mason, Judith Pfeffer, Stephen Whalen, Robert Vallee, Tina Powderly, Glenn Jones, Matt Kelly, Shannon Zollo and Joseph McGann. Administrative personnel in attendance: Jeffrey Nutting; Town Administrator and Mark Cerel; Town Attorney.

CALL TO ORDER: Chairman Mason called the meeting to order at 7:00PM with a moment of silence and the Pledge of Allegiance.

APPROVAL OF MINUTES: *July 20, 2011 Public Session Minutes* **MOTION** by Councilor Jones to approve the July 20, 2011 Minutes **SECONDED** by Councilor Kelly. **VOTE to Approve: Unanimous.**

ANNOUNCEMENTS: ► Chairman Mason announced that the Town Council meeting is recorded by Comcast, Verizon and Franklin Matters. ► He also announced that a workshop for newly elected Town Councilors will be held on November 9.

PROCLAMATIONS/RECOGNITIONS: NONE

CITIZEN COMMENTS: ► Town Clerk Deborah Pellegri said nomination papers for local public office are due on September 16. Mrs. Pellegri reported that no one is running for the associate member seat on the Planning Board. The following officials will be elected this cycle: Town Clerk, Treasurer/Collector, Board of Health, Constable and Town Council. ► Mr. Bob Donovan of 44 Anthony Road identified himself as a Franklin firefighter and said budget cuts have resulted in an extended ambulance response time. He said that without proper manpower, firefighters cannot efficiently respond to fires and medical emergencies, and noted the expanding population in Town.

APPOINTMENTS: 2011 Election Workers – **MOTION** by Councilor Jones to waive the reading **SECONDED** by Councilor Kelly. **VOTE to Approve: Unanimous.**
MOTION by Councilor Whalen to appoint the 2011 Election Workers named on the agenda attachment **SECONDED** by Councilor Jones. **VOTE to Approve: Unanimous.**

Registrar of Voters – **MOTION** by Councilor Pfeffer to ratify the appointment of Lesley McCaffrey of 16 Dover Circle as the Registrar of Voters **SECONDED** by Councilor Whalen. **VOTE to Approve: Unanimous.**

Conservation Commission – **MOTION** by Councilor Pfeffer to ratify the appointment of Marc Depoto of 21 Orchard Street to the Conservation Commission **SECONDED** by Councilor Whalen. **VOTE to Approve: Unanimous.**

Finance Committee – MOTION by Councilor Pfeffer to ratify the appointment of the following to the Finance Committee for the terms noted, as recommended by the Town Administrator: Brett Feldman, 86 Stone Ridge Road (1-year term), Phyllis Messere of 37 Uncas Ave. (1-year term), Linda Poole-Huempfer of 12 Hailey Ave. (1-year term), James Roche of 152 Daniels Street (2-year term), Tim Smith of 2 Dove Drive (2-year term), Patricia Goldsmith of 5 Eagle Drive (2-year term), Christopher Quinn of 3 Cohasset Way (3-year term), Susan Dewsnap of 10 Garden Street (3-year term) and Michael Dufour of 10 Symphony Drive (3-year term) **SECONDED** by Councilor Whalen. **VOTE to Approve: Unanimous.**

HEARINGS: Alcoholic Beverages Licensees – Failure to Pass Compliance Check – 7:10PM: Devita's Market – Police Chief Stephen Williams reported that a compliance check was conducted on Friday, July 29. He noted that Franklin is well below the national average in terms of non-compliance cases. Chief Williams stated that at 8:50PM on 7/29/11, an underage male operative paid cash at Devita's Market for a 12-pack of beer and was not asked for identification. This is the second offense by Devita's Market in less than three years. The recommended penalty is a five-day suspension with two days held in abeyance for two years and three days served. It has been confirmed with the attorney for the owner of Devita's Market that these terms are acceptable. The attorney also confirmed that, since the incident, the cashier in question has received TIPP training. Councilor Whalen stated that asking for identification is the most basic compliance measure that can be taken. Chairman Mason noted that it is the owner's wife who failed to ask for identification in this instance and suggested that ownership should increase the sense of responsibility for compliance with the law. Chief Williams said all alcoholic beverage license holders in Town had plenty of notice of the compliance check. Chairman Mason recommended that the penalty be imposed for three days in a row, with one being a Friday. Councilor Pfeffer suggested the penalty should be imposed on three Fridays in a row. Councilor Jones concurred. Councilor McGann said the Council has never imposed three Fridays in a row, adding that it would present a hardship on the business. Chairman Mason agreed. Councilor Pfeffer said she suggested three consecutive Fridays because the owners objected to three days in a row. Councilor Whalen said he is in favor of three consecutive days (including a Friday) or three consecutive Fridays, noting that the previous offense is relevant. Mr. Nutting suggested the penalty be imposed on consecutive days Wednesday, Thursday and Friday; September 21, 22 and 23. **MOTION** by Chairman Mason to close the hearing **SECONDED** by Councilor Kelly. **VOTE to Approve: Unanimous.** **MOTION** by Councilor Whalen that Devita's Market suspend liquor sales for three consecutive days; Wednesday, September 21, Thursday, September 22 and Friday, September 23; with two days of suspension held in abeyance for two years **SECONDED** by Councilor Jones. **VOTE to Approve: Unanimous.**

Joe's American Bar & Grill – Chief Williams reported that an underage operative entered the establishment at 8:24PM on July 29 and requested a beer at the bar. The operative was asked for identification, which was presented and not recognized by the bartender as being invalid for the purchase of alcohol. The Chief noted it is the first offense for this establishment and recommended a three-day suspension of liquor sales with one served and two held in abeyance for one year. The attorney representing the restaurant chain

noted that this is the first offense for the entire chain. He said that all staff members are TIPP trained and that the chain employs its own compliance enforcement officer who is a former member of the Alcoholic Beverages Control Commission (ABCC). The attorney said the employee who failed to recognize the invalidity of the identification presented is a model employee who has worked for the company for 13 years. He said the incident is a wake-up call for the entire company. **MOTION** by Councilor Whalen to close the hearing **SECONDED** by Councilor Pfeffer. **VOTE to Approve: Unanimous.** **MOTION** by Councilor Whalen that Joe's American Bar & Grill suspend alcohol sales on Friday, September 16, 2011, with two days held in abeyance for one year **SECONDED** by Councilor Powderly. **VOTE to Approve: Unanimous.**

Tedeschi's Food Shop – Chief Williams reported that an underage operative entered Tedeschi's at 8:32PM and purchased a 12-pack of beer without being asked for identification. The business has no prior incidents of non-compliance. A three-day suspension with one day served and two held in abeyance for one year is recommended. The attorney for Tedeschi's said the owners take the offense seriously and that all employees were TIPP recertified in July. Registers in the stores prompt for identification and video tapes are checked against liquor and tobacco product sales. The attorney said the cashier was simultaneously keeping track of gasoline sales outside. The company has offered resources to help other businesses in Town to remain in compliance. **MOTION** by Councilor Whalen to close the hearing **SECONDED** by Councilor Pfeffer. **VOTE to Approve: Unanimous.** **MOTION** by Councilor Whalen that Tedeschi's Food Shop suspend liquor sales on Friday, September 16, 2011, with two days held in abeyance for one year **SECONDED** by Councilor Powderly. **VOTE to Approve: Unanimous.**

Uptowne Pub – Chief Williams reported that two underage operatives entered the establishment at about 9:00PM, ordered and were served beer without being asked for identification. As this is the first offense for the Uptowne Pub, Chief Williams recommended a three-day suspension with one served and two held in abeyance for one year. The employee in question has been suspended. **MOTION** by Councilor Jones to close the hearing **SECONDED** by Councilor Whalen. **VOTE to Approve: Unanimous.** **MOTION** by Councilor Whalen that the Uptowne Pub suspend liquor sales for one day, Friday, September 16 with two days held in abeyance for one year **SECONDED** by Councilor Jones. **VOTE to Approve: Unanimous.**

LICENSE TRANSACTIONS: New All Alcoholic Beverages License – Sakebom, 264 Franklin Village Drive: Councilor Pfeffer read the request for an all alcoholic beverages license for the Sakebom Restaurant. **MOTION** by Councilor Pfeffer to approve an all alcoholic beverages license for Sakebom, located at 264 Franklin Village Drive **SECONDED** by Councilor Whalen. **DISCUSSION:** Councilor Kelly advised the restaurant owners to be cautious with regard to serving alcohol. Councilor Jones noted that the previous occupant of the site had two non-compliance violations. **VOTE to Approve: Unanimous.**

PRESENTATIONS/DISCUSSIONS: Residential Solicitation – Chief Williams said that all solicitors go through an application process which includes criminal background