

**ORDINANCE AMENDING
T.C.O.P. 113-7, ENTITLED
“HOURS AND DAYS OF SALE,”
TO MODIFY THE HOURS
DURING WHICH ALCOHOLIC
BEVERAGES MAY BE SOLD
WITHIN THE CITY**

PLD- Ordinance Amending TCOP113.7 hours of sale RN 6.2017

WHEREAS, pursuant to N.J.S.A. 13:2-38, no retail licensee may sell spirituous liquors in original containers (package goods) before 9:00 a.m. and after 10:00 p.m. on any day of the week; and

WHEREAS, pursuant to N.J.S.A. 33:1-40, municipalities may limit the hours between which the sale of alcoholic beverages at retail may be made and prohibit the sale of alcoholic beverages on Sundays, and, pursuant to N.J.S.A. 33:1-40.3, cities of the first class may establish by ordinance separate hours for sales of alcoholic beverages for each type of retail license and for sales for on premises consumption or off premises consumption; and

WHEREAS, a city of the first class is defined pursuant to N.J.S.A. 40A:6-4 as a city having a population of more than 150,000 people as ascertained by the most recent federal decennial census; and

WHEREAS, although the City of Paterson is believed to have a population in excess of 150,000 people, it is not currently classified as a city of the first class and, therefore, has no statutory authority to establish by ordinance separate hours for sales of alcoholic beverages for consumption on or off premises; and

WHEREAS, Article 4, Section 7, Paragraph 9 (13) of the Constitution of the State of New Jersey provides that the legislature shall not pass private, special, or local laws regulating the internal affairs of towns and counties; and

WHEREAS, N.J.S.A. 33:1-40.3 is a special law since there is no rational basis for the preference given to cities of the first class, and both cities of the first class and other municipalities have the same interest in regulating the hours for sales of alcoholic beverages by licensees for consumption on or off the premises; and

WHEREAS, the City of Paterson and other cities which are not cities of the first class, should be permitted to regulate their internal affairs, including the hours for sales of alcoholic beverages by licensees for consumption on or off the premises, in accordance with the Constitution of the State of New Jersey; and

WHEREAS, pursuant to N.J.S.A. 33:1-40 and the Constitution of the State of New Jersey, the Municipal Council of the City of Paterson seeks to modify T.C.O.P. 113-7, entitled “Hours and days of sale”, to modify the hours during which alcoholic beverages may be sold by any licensee within the City; and

WHEREAS, the Municipal Council of the City of Paterson finds that T.C.O.P. 181, which was adopted on September 16, 2014, has been successful in reducing crime within the City limits; and

WHEREAS, pursuant to T.C.O.P. 181-2(a), which modified T.C.O.P. 113-7, the sale of alcoholic beverages within designated hot spot or high crime locations with the City of Paterson is limited to 5:00 a.m. through 12:00 midnight; and

WHEREAS, additionally, the Municipal Council is well aware of the dangers that alcoholic beverages, including but not limited to underage consumption, poses to the City's youth; and

WHEREAS, the Municipal Council of the City of Paterson has determined that the quality of life for the City's youth and residents would be greatly improved upon the establishment of reduced hours for sales of alcoholic beverages for consumption off premises; and

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL FOR THE CITY OF PATERSON that the Paterson Code shall be amended and supplemented, with additions indicated by underlining and deletions indicated by [brackets], to state as follows:

SECTION I: T.C.O.P. 113-7: Hours and days of sale.

- A. With regard to plenary retail consumption licenses, no licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage or allow the consumption of any alcoholic beverage on the licensed premises between the following hours on the following days:
1. On weekdays, between the hours of 3:00 a.m. and 7:00 a.m.
 2. On Sundays, between the hours of 3:00 a.m. and 11:00 a.m.
 3. On New Year's Day when it is a Sunday, between the hours of 5:00 a.m. and 1:00 p.m.
- B. Additionally, no licensee shall sell, serve, deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage for off premises consumption on any day of the week between the hours of 10:00 p.m. and 10:00 a.m.
- C. When New Year's Day is a weekday, sale, service, delivery and consumption of alcoholic beverages on premises shall be permitted during the entire day.
- D. In addition to the hours restrictions set forth in Subsection [A(1) and (2)] A and B, above, and excepting New Year's Day, as set forth in Subsections A(3) and [B] C, above, any plenary retail consumption licensee (e.g., bar or other A.B.C. licensee serving alcohol on the premises) [or plenary retail distribution licensee (e.g., liquor store)] located within a specified location, as detailed in Chapter 181, entitled "Commercial Hours of Operation," shall also be bound by the closing times set forth in that chapter. However, opening times shall be unaffected.

SECTION II: SEVERABILITY.

If any part of this Ordinance shall be declared to be invalid or inoperative, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

SECTION III: CITY CODE.

The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Paterson Code.

SECTION IV: AMENDING CITY CODE.

The City Clerk and Corporation Counsel may change chapter numbers, article numbers and section numbers if codification of this Ordinance reveals a conflict between those numbers and the existing Code, in order to avoid confusion and possible repealing of existing provisions unintentionally. All Ordinances or portions of Ordinances inconsistent herewith are hereby repealed to the extent of their inconsistency only.

SECTION V: INCONSISTENCIES IN THE PATERSON CODE.

All Ordinances or portions of Ordinances inconsistent herewith are hereby repealed to the extent of their inconsistency only.

SECTION VI: CLERICAL ERRORS.

The City Clerk and the Corporation Counsel may correct any clerical errors in the printing, publication and codification of this Ordinance, provided both concur with the correction being made and both certify in writing to the Municipal Council as to the specifics of the clerical correction no later than seven (7) days before the correction is made, or, where a legal deadline for publication applies, no later than the date of the next Regular Meeting. The said certifications shall also be prominently posted no later than the date of the next Regular Meeting, and thereafter shall be annexed to the corrected original Ordinance and retained by the City Clerk.

SECTION VII: LIBERAL INTERPRETATION.

The City Council intends that all general provisions, terms, phrases, and expressions contained in this Ordinance be liberally construed in order that the Council's true intent and meaning may be fully implemented.

SECTION VIII: EFFECTIVE DATE.

This Ordinance shall take effect upon passage, approval and publication, as required by law.

STATEMENT OF PURPOSE

The purpose of this Ordinance is to improve the quality of life for the City's youth and residents, by amending T.C.O.P. 113-7 to modify the hours for sales of alcoholic beverages for consumption off premises.