

# Ordinance of the City of Paterson, N.J.

No. . . 4 . . . . . 1st Reading      No. . . 23-001 . . . . .

Date . . JANUARY 17, . 2023 . . . . .

No. . . . . 1 . . . . . Public Hearing  
(2nd Rdg. & Final Passage)

Date to Mayor JANUARY 18, . 2023

Date Returned JANUARY 19, . 2023

Division

Date Submitted to  
Council . . . . . DECEMBER 13, . 2022 . . . . .

Factual Contents Certified to By

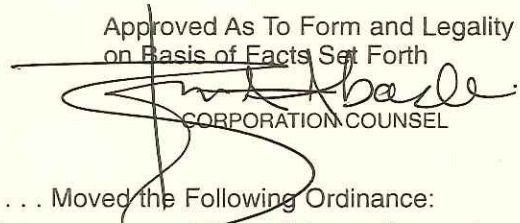
TITLE: **ORDINANCE AMENDING PATERSON  
CODE CHAPTER 337," NOISE,"**

Title

Date

**Sponsored by Councilman M.D. Forid Uddin**

Approved As To Form and Legality  
on Basis of Facts Set Forth



CORPORATION COUNSEL

12/13/22  
Date

COUNCILPERSON . . . MD. FORID UDDIN . . . . . Moved the Following Ordinance:

**WHEREAS**, a municipality is authorized to ensure public safety and guard against nuisance, see N.J.S.A. 40:48-1(20), N.J.S.A. 40:48-2, N.J.S.A. 40:52-1(f), N.J.S.A. 40:52-2; and

**WHEREAS**, the City of Paterson currently regulates noise within the City via Paterson Code Chapter 337; and

**WHEREAS**, numerous individuals and commercial establishments throughout the City of Paterson create quality of life issues by making excessive sound; and

**WHEREAS**, an Ordinance amending Chapter 337 of the Paterson Code is necessary in order to address such quality of life concerns; and

**WHEREAS**, such amendments are necessary to promote the safety of Paterson residents, and to guard against public nuisance.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF 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:  
§ 337-1. Noise Policy**

**UNCHANGED**

**§ 337-2. Applicability**

**UNCHANGED**

**§ 337-3. Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this chapter have the same meaning as those defined in N.J.A.C. 7:29.

**COMMERCIAL FACILITY**

Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

**A.**

Banking and other financial institutions;

**B.**

Dining establishments;

**C.**

Establishments for providing retail services;

**D.**

Establishments for providing wholesale services;

**E.**

Establishments for recreation and entertainment;

**F.**

Office buildings;

**G.**

Transportation;

**H.**

Warehouses; and

**I.**

Establishments providing living accommodations which exceed six dwelling units, including, but not limited to, apartments, co-ops, hotels, motels, and dormitories [when they are the source of the sound that is being investigated and the source of sound is a heating, air-conditioning, pool filter unit or system, or outdoor amplified sound system.]

**COMMUNITY SERVICE FACILITY**

Any nonresidential facility used to provide service to the public, including but not limited to:

**A.**

Club meeting halls, offices and facilities;

**B.**

Organization offices and facilities;

**C.**

Facilities for the support and practice of religion;

**D.**

Private and parochial schools;

**E.**

Hospitals;

**F.**

Offices and buildings of agencies or instrumentalities of government; and

**G.**

Maintenance centers (such as Department of Public Works facilities).

**CONSTRUCTION**

Any site preparation, assembly, erection, repair, alteration, or similar action of buildings or structures.

**CONTINUOUS AIRBORNE SOUND**

Sound that is measured by the slow response setting of a sound-level meter in accordance with the provisions of N.J.A.C. 7:29-2, and which lasts one second or longer. Impulsive sounds that are rapidly repetitive and have a duration of one second or longer shall be measured as continuous airborne sound.

**dba**

The abbreviation designating the unit of sound level as measured by a sound-level meter using the A-weighting.

**DECIBEL (dB)**

The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

**DEMOLITION**

Any dismantling, destruction or removal of buildings, structures, or roadways.

**DEPARTMENT**

The New Jersey Department of Environmental Protection.

**EMERGENCY WORK**

Any work or action necessary at the site of an emergency to restore or deliver essential services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational

waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

**FREQUENCY**

The number of sound pressure oscillations per second expressed in hertz; abbreviated "Hz."

**IMPULSIVE SOUND**

Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

**INDUSTRIAL FACILITY**

Any facility, whether public or private, and its related premises, property, or equipment involving:

**A.**

The fabrication, manufacture, or production of durable or nondurable goods; or

**B.**

Industrial-like activities, including, but not limited to:

**(1)**

Waste collection;

**(2)**

Waste incineration;

**(3)**

Waste recycling;

**(4)**

Water and sewage treatment; and

**(5)**

Electricity generation.

**[MINOR VIOLATION**

A violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation].

**MOTOR VEHICLE**

Any vehicle that is propelled other than by human or animal power on land.

**MUFFLER**

A properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

**MULTI-DWELLING-UNIT BUILDING**

Any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple-family houses, townhouses, and attached residences.

**MULTI-USE PROPERTY**

Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

**A.**

A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

**B.**

A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

**NOISE CONTROL INVESTIGATOR (NCI)**

An employee of a municipality, county, or regional health commission that has a Department-approved model noise control ordinance, and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound-level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

**NOISE CONTROL OFFICER (NCO)**

An employee of a local, county, or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and must be currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

**PERSON**

Any individual, public or private corporation, political subdivision, governmental agency, department or bureau of the state, municipality, industry, or association, including condominium or co-op associations, limited liability corporations, and partnerships and limited liability partnerships.

**PERSONAL DEVICE**

Any device, owned by an individual, with the capability to process, store or transmit information or sound. This includes, but is not limited to, mobile phones, smartphones, tablets, Bluetooth, PCs, laptops, radios, stereo systems cameras, speakers, amplifiers of any kind, audio devices and any device that produces sounds and/or music in a plainly audible manner.

**PLAINLY AUDIBLE**

Any sound that can be detected by an NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

**PRIVATE RIGHT-OF-WAY**

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a nongovernmental entity.

**PUBLIC RIGHT-OF-WAY**

Any street, avenue, boulevard, road, highway, sidewalk, alley or similar place that is owned or controlled by a governmental entity.

**PUBLIC SPACE**

Any real property or structure thereon which is owned, leased or controlled by a governmental entity.

**REAL PROPERTY LINE**

Either a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; b) the vertical and horizontal boundaries of a dwelling unit that is part of a multidwelling unit building; or c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note: This definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

**RESIDENTIAL PROPERTY**

Property used for human habitation, unless the habitation is a condition of employment, including but not limited to:

A.

Private property used for human habitation, unless it constitutes a commercial facility as defined by this chapter;

[B.

Commercial living accommodations and commercial property used for human habitation;]

[C.

Recreational and entertainment property used for human habitation;]

[D. ]B.

Community service property used for human habitation.

#### **SOUND PRODUCTION DEVICE**

Any device whose primary function is the production of sound, including, but not limited to, any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

#### **SOUND REDUCTION DEVICE**

Any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

#### **SOUND-LEVEL METER**

An instrument for the measurement of sound levels as specified in N.J.A.C. 7:29-2.6(a)1, which provisions are incorporated herein by reference.

#### **STATIONARY EMERGENCY SIGNALING DEVICE**

Any device, excluding those attached to motor vehicles, used to alert local persons engaged in local emergency operations. These include, but are not limited to, firefighters, first aid squad members and law enforcement officers, whether paid or volunteer.

#### **WEEKDAY**

Any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

#### **WEEKENDS**

Beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

#### **§ 337-4. Powers, Duties, and Qualifications of the Director of Division of Health; Applicable Property Categories**

**UNCHANGED**

#### **§ 337-5. Exemptions**

**UNCHANGED**

#### **§ 337-6. Enforcement Officers**

**UNCHANGED**

#### **§ 337-7 Measurement Protocols**

**UNCHANGED**

#### **§ 337-8. Maximum Permissible Sound Levels**

No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 337-4B(1)(a),(c),(d),(e),(f),(g),(h) and (i) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when

measured at or within the real property line of any of the receiving properties listed in Tables I, II or III, except as specified in § 337-7B.

**B.**

Impulsive sound. Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

Table I			
Maximum Permissible A-Weighted Sound Levels When Measured Outdoors			
Receiving Property Category	Residential Property or Residential Portion of a Multi-Use Property	Residential Property or Residential Portion of a Multi-Use Property	[Commercial] Public Service Facility, Nonresidential/ <u>Noncommercial</u> Portion of a Multi-Use Property, or Community Service Facility
Time	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	24 hours
Maximum A-Weighted Sound Level Standard, dB	65	50	65

Table II			
Maximum Permissible A-Weighted Sound Levels When Measured Indoors			
Receiving Property Category	Residential Property, or Residential Portion of a Multi-Use Property		[Commercial Facility or] Nonresidential/ <u>Noncommercial</u> Portion of a Multi-Use Property
Time	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	24 hours
Maximum A-Weighted Sound Level Standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

Table III					
Maximum Permissible Octave Band Sound Pressure Levels in Decibels					
Receiving Property Category	Residential Property or Residential Portion of a Multi-Use Property (outdoors)		Residential Property, or Residential Portion of a Multi-Use Property (indoors)	[Commercial Facility,] Public Service Facility, Nonresidential/ <u>Noncommercial</u> Portion of a Multi-use Property, or Community Service Facility (outdoors)	[Commercial Facility or] Nonresidential/ <u>Noncommercial</u> Portion of a Multi-Use Property (indoors)
Octave Band Center Frequency Level, Hz	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7:00 a.m. to	10:00 p.m. to	7:00 a.m. to	10:00 p.m. to	24 hours
					24 hours

	10:00 p.m.	7:00 a.m.	10:00 p.m.	7:00 a.m.		
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

**§ 337-9. Sound Production Devices**

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in § **337-7B** of this chapter. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

**Table IV**  
**Maximum Permissible Increase in Total Sound Levels Within a Residential Property**  
**Weeknights 10:00 p.m. to 8:00 a.m.**  
**Weekend nights 11:00 p.m. to 9:00 a.m.**

3 dB (C)

**All Other Times**  
 3 dB (C)

**§ 337-10. Restricted Uses and Activities**

UNCHANGED

**§ 337-11. Motor Vehicles, Commercial Facilities and Personal Devices**

**A.**

No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.

**B.**

No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the federal noise regulations under 40 CFR Part 205.

**C.**

Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.

**D.**

Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

**E.**

No personal device shall be used or operated in such a manner that it is plainly audible at a distance of 25 feet in any direction from the user/operator between the hours of 10:00 p.m. and 8:00 a.m.

**F.**

No personal device shall be used or operated in such a manner that it is plainly audible at a distance of 50 feet in any direction from the user/operator between the hours of 8:00 a.m. and 10:00 p.m.

**G.**

No person shall cause, suffer, allow, or permit the operation of any source of sound from any commercial facility between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to create a sound level that is plainly audible at a distance of 25 feet in any direction from the commercial facility.

**H.**

No person shall cause, suffer, allow, or permit the operation of any source of sound from any commercial facility between the hours of 8:00 a.m. and 10:00 p.m. in such a manner as to create a sound level that is plainly audible at a distance of 50 feet in any direction from the commercial facility.

**§ 337-12. Enforcement.**

**A.**

Violation of any provision of this chapter shall be cause for [a notice of violation (NOV) or] a notice of penalty assessment (NOPA) document, typically a summons complaint, to be issued to the violator by a Police Officer, the Noise Control Officer or Noise Control Investigator.

**B.**

Any person who violates any provision of this chapter shall be subject to a minimum [civil] penalty of \$500 for each offense [of not more than the] and a maximum penalty pursuant to N.J.S.A. 40:49-5, [which is] of \$2,000 [as of December 2014]. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.

**[C.**

Upon identification of a violation of this chapter, the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this chapter that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.]

**[D.**

If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in § 337-3 of this chapter), an NOV shall be issued to the violator.

**(1)**

The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an



opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

(2)

The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq., where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Health Department of the City of Paterson. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.]

[E. ]

[If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, The violator shall be notified that if the violation is not immediately corrected, an NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If [a non-minor] the violation is immediately corrected, a Notice of Violation (NOV) without a civil penalty shall [still] be issued to document the violation. If the violation occurs again (within 12 months of the initial violation), an NOPA shall be issued, regardless of whether the violation is immediately corrected or not.]

[F. ]

[The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good-faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, an NOPA shall be issued.]

[G.] :

[The recipient of an NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.]

[H. ]

[The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.]

[I. ] C.

Any claim for a civil penalty may be compromised and settled based on the following factors:

(1)

Mitigating or any other extenuating circumstances;

(2)

The timely implementation by the violator of measures which lead to compliance;

(3)

The conduct of the violator; and

(4)

The compliance history of the violator.

## **SECTION II:**

This Ordinance shall take effect upon passage and publication as provided by law.

## **SECTION III:**

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

**SECTION IV:**

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 V:**

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 accidental repealers of existing provisions.

**SECTION VI:**

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.

**STATEMENT OF PURPOSE**

The purpose of this Ordinance is to amend Chapter 337, of the Code of the City of Paterson regarding Noise.

SECONDED BY COUNCILPERSON LUIS VELEZ/DR.LILISA MIMMS/ALEX MENDEZ

*Do Not Use Space Below This Line*

RECORD OF COUNCIL VOTE ON FINAL PASSAGE	AYE	NAY	ABSTAIN	ABSENT
1. ABDELAZIZ, ALAA "AL"				X
2. COTTON, RUBY N.	X			
3. DAVILA, MARITZA				X
4. JACKSON, MICHAEL				X
5. KHALIQUE, SHAHIN	X			
6. MENDEZ, ALEX	X			
7. MIMMS, LILISA	X			
8. UDDIN, MD FORID	X			
9. VELEZ, LUIS	X			

Adopted on first reading at a meeting of the Council of the City of Paterson, N.J., on DECEMBER 13, 2022 Adopted on second and final reading after hearing on JANUARY 17, 2023

Approved \_\_\_\_\_ Reconsidered \_\_\_\_\_ Over  Ride  Vote  Aye  Nay  
 Rejected By \_\_\_\_\_ By Council \_\_\_\_\_ Date 1/19/23  
 \_\_\_\_\_ Mayor ANDRE SAYEGH  
 \_\_\_\_\_ Council President SHAHIN KHALIQUE \_\_\_\_\_ Deputy City Clerk JACQUELINE MURRAY