**AN ORDINANCE BY PRINCETON CONCERNING PEDDLING AND SOLICITING AND AMENDING THE "CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974" AND THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968".**

WHEREAS, the Borough of Princeton and Township of Princeton pursuant to the provisions of the New Jersey Municipal Consolidation Act, *N.J.S.A.* 40:43-66.35 consolidated as Princeton on January 1, 2013; and

WHEREAS, pursuant to *N.J.S.A.* 40:43-66.64, the Princeton Council on January 1, 2013 adopted a Resolution continuing in effect Ordinances of the former Borough of Princeton and the former Township of Princeton as a new Code for Princeton is prepared; and

WHEREAS, the Princeton Council's Code Subcommittee has reviewed and consolidated portions of Chapter 25 of the "Code of the Borough of Princeton, New Jersey, 1974" and portions of Chapter 14 of the "Code of the Township of Princeton, New Jersey, 1968" pertaining to Peddling and Soliciting; and

WHEREAS, the Princeton Council wishes to adopt said Code revisions which will become a part of the new Princeton Code at a future date.

NOW, THEREFORE, BE IT ORDAINED by the Princeton Council as follows:

Section 1. Sections 25-1 through 25-38 within Articles I, II, III and IV of Chapter 25 of the "Code of the Borough of Princeton, New Jersey, 1974," and Sections 14-1 through 14-13.2 within Article I of Chapter 14 of the "Code of the Township of Princeton, New Jersey, 1968," are hereby repealed.

Section 2. Revisions to Chapter 14 of the "Code of the Township of Princeton, New Jersey, 1968" as set forth on Exhibit A attached hereto and made a part hereof are hereby adopted

to set forth provisions governing peddling, soliciting and similar conduct, and to replace the aforementioned sections of the "Code of the Borough of Princeton, New Jersey, 1974" and the "Code of the Township of Princeton, New Jersey, 1968".

Section 3. Section 2-125 of the "Code of the Township of Princeton, New Jersey, 1968," which sets forth the license fees for peddlers, solicitors and transient merchants, shall be amended to reflect the revisions to Chapter 14 as set forth in the attached, and as follows (deletions are ~~struck~~ and additions are underlined):

**Sec. 2-125. Peddler, Solicitor, Transient Merchant License**

| | |
|---|---|
| Peddler, Solicitor, Transient Merchant | $100.00 |
| ~~One-day peddler's license~~ | ~~$25.00~~ |

Section 4. Section 2-98 of the "Code of the Borough of Princeton, New Jersey, 1974," regarding fees for peddler, solicitor and transient merchant licenses, is hereby repealed.

Section 5. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are repealed.

Section 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

Section 7. The provisions of this Ordinance and the attached Chapter 14 shall be applicable within Princeton upon final adoption and shall become a part of the new Princeton Code once completed and adopted.

The foregoing ordinance was introduced at a meeting of the Mayor and Council of Princeton held on May 5, 2014 and will be further considered for final passage after a public hearing thereon at a meeting of said Mayor and Council to be held at the Princeton Municipal Complex, 400 Witherspoon Street on May 27, 2014 which begins at 7:00 p.m.

Kathleen K. Brzezynski

Kathleen K. Brzezynski, Deputy Clerk

EXHIBIT A

# CHAPTER 14. PEDDLING, SOLICITING AND RELATED ACTIVITIES.

## Article I. Solicitors, Canvassers, Peddlers and Transient Merchants.

### Sec. 14-1. Purpose.

The purposes of this article are to (1) deter the use of peddling or soliciting to gain access to homes or other premises for criminal purposes; (2) maintain peace, comfort, quiet and privacy for residents of Princeton while balancing the same against the opportunity for peddlers and solicitors to exercise their rights of free speech; (3) discourage unethical, dishonest and illegal business practices; (4) prevent dishonest solicitation of funds; (5) protect the safety and welfare of the inhabitants of Princeton as well as peddlers and solicitors engaged in such activities within Princeton; and (6) preserve safety and order in and about the streets, sidewalks, businesses and public areas in Princeton. All application fees to be charged for the issuance of licenses are not to be considered as revenue, but are charges for the purpose of covering the expenses of administering this article.

### Sec. 14-2. Definitions.

*Canvasser* - See definition of *solicitor* below.

*Commercial* shall mean pertaining to or engaging in commerce, or prepared, done or acting with the sole emphasis on salability or profit. The term commercial shall not include charitable speech.

*Individual* shall mean any natural person.

*Itinerant vendor* – See definition of *transient merchant* below.

*Merchandise* shall mean all goods, wares, food, drinks, fruits, vegetables, magazines, subscriptions, periodicals, printed material, farm products, all types of articles of personal property, all types of orders or contracts for services, home improvements or alterations, and anything that may be sold or distributed shall be considered "merchandise" for the purpose of this article.

*Nonprofit organization* shall mean (1) any organization tax exempt under §501(c)(3) of the Internal Revenue Code; (2) any organization created under or otherwise subject to the provisions of Title 15A of the New Jersey Statutes; (3) any organization, whether or not qualified under §501(c)(3) of the Internal Revenue Code or subject to the provisions of Title 15A of the New Jersey Statutes, whose primary purpose is to benefit the school age children of Princeton, including but not limited to schools, school clubs and organizations, Cub Scouts, Boy Scouts, Brownies, Girl Scouts and similar youth groups; (4) any organization whose primary purpose is to advocate for religious or political causes, whether or not qualified under §501(c)(3) of the Internal Revenue Code or subject to Title 15A of the New Jersey Statues; or (5) any department within Princeton's municipal governmental structure, including, but not limited to, the Police Department and any volunteer fire or first aid company that is located in, has a substantial membership from or serves Princeton.

*Peddler* shall mean any person who goes from house to house or place to place by any means of conveyance, carrying or transporting merchandise for the purpose of selling and

delivering the merchandise to customers. The term *peddler* shall include the words, hawker and huckster, and shall also include a person who from time to time offers merchandise for sale from one or more fixed locations out of doors, when the merchandise is displayed or stored in a motor vehicle located on the property, whether the property is owned by that person or by others.

*Person* shall mean and include any natural person, firm, partnership, corporation, organization, club, or association or any principal, agent, employee or representative thereof.

*Solicitor* shall mean an individual who goes from house to house or from place to place by any means of conveyance, soliciting or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services, and whether or not he is collecting advance payments on such sales or orders, or who engages in any of the foregoing activities from a stationary location or any street or any public place. The word solicitor shall also mean any individual who goes from house to house or from place to place for the purpose of obtaining contributions or subscriptions, or who does research analyses, makes surveys or opinion polls, obtains rating data or similar information, distributes advertisements or handbills of a commercial nature or who engages in any similar work which involves a door to door or place to place activity. The word *solicitor* shall also include the word *canvasser*.

*Transient merchant* shall mean any person who merchandises or sells with the intent to close out or discontinue a business within a period of one year from the date of commencement and occupies a room, building or other permanently constructed premises for the purpose of selling merchandise. The words *transient merchant* shall also include the words *itinerant vendor*.

**Sec. 14-3. License required; exceptions.**

(a) It shall be unlawful for any peddler, solicitor or transient merchant to sell, offer for sale or distribute merchandise, printed material or services within Princeton without first obtaining a license from the clerk by filing an application for license, paying a license fee and obtaining said license.

(b) The license requirements of this article shall not apply to the following:

(1) Any nonprofit organization as defined in section 14-2 of this article, provided that the means of identification assigned by such organization, if any, is carried by the peddler, solicitor or transient merchant. If no means of identification is assigned by such organization, the peddler, solicitor or transient merchant shall be required to carry a bona fide means of identification, including but not limited to a valid driver's license or other government-issued identification.

(2) Any person intending to distribute noncommercial or not-for-profit handbills, pamphlets, leaflets, circulars, advertisements or printed material.

(3) Any person (a) campaigning for any elected public office or public question, which is to be voted upon in Princeton at a general, special, primary or school board election, or in a national or State election; (b) distributing handbills, pamphlets, leaflets, circulars, advertisements or printed material with respect thereto; or (c) otherwise engaging in political speech.

(4) Any person engaging in the advocacy of noncommercial or not-for-profit causes, whether or not in connection with a larger organization, or engaging in spontaneous speech, including, but not limited, to speech between neighbors.

(5) Any person honorably discharged from the military of the United States as defined by N.J.S.A. 45:24-9 and 24-10, possessing corresponding identification in conformity with said statute.

(6) Any person who is an exempt fireman as defined by N.J.S.A. 45:24-9 and 24-10, possessing corresponding identification in conformity with said statute.

(7) Any person holding a solicitation license or permit issued under any legislation of the United States government or by a state agency pursuant to statute.

(c) Nothing in this section shall be construed as exempting the persons or organizations listed in section 14-3(b) from compliance with the provisions of this article that do not deal with or relate to licenses.

**Sec. 14-4. Effect of license.**

Upon obtaining a license as hereinafter provided, a peddler, solicitor or transient merchant may conduct licensed activities within Princeton only as long as he adheres to the regulations set forth in this article and carries the license upon his person or displays the license in a conspicuous place at all times during the conduct of the licensed activities. The license shall be shown to any individual upon request.

**Sec. 14-5. Application for license.**

An application for license shall be made upon forms provided by Princeton, including a New Jersey State Bureau of Identification form authorizing release of any criminal history record information to the Princeton Police Department, shall be sworn to, shall be filed with the municipal clerk and shall contain or be accompanied by the following information:

(a) *For solicitors and peddlers.*

(1) Applicant's name, permanent address, local address (if different from permanent address) and telephone number.

(2) Name and address of the organization or person(s) on whose behalf soliciting or peddling is being made, together with telephone numbers.

(3) A description of the nature of merchandise to be sold.

(4) Length of time for which license is desired.

(5) A statement as to whether or not the applicant has been convicted of any crime, disorderly persons offense or petty disorderly persons offense involving deceptive business

practices or fraud, or a violation of any ordinance enacted in other municipalities concerning peddling, solicitation or transient merchandising, when and where the offense(s) occurred and the penalty imposed, if any.

(6) Motor vehicle registration number, make and model of any motor vehicle used by the applicant in connection with his peddling or soliciting.

(7) Applicant's photo identification, which the municipal clerk will photocopy and attach to the application.

(8) If the applicant is an agent, employee or representative, he shall attach to the application a letter from the person or organization for whom the applicant works or represents, authorizing the applicant to act as its agent, employee or representative and assuming responsibility for the applicant's conduct.

(9) All applicants selling merchandise subject to sales tax shall submit a copy of a valid certificate of authority issued by the Director of the New Jersey Division of Taxation, pursuant to N.J.S.A. 54:32B-15, empowering the applicant to collect sales tax. Certificates shall not be required for the sale of property exempted from sales and use taxation pursuant to N.J.S.A. 54:32B-8.2. All licensees shall attach the original certificate to their cart, stand, truck or other merchandising device, as required by N.J.S.A. 54:32B-15.

(10) All applicants selling food items for immediate consumption shall submit a copy of the board of health license.

(b) *For Transient Merchants.*

(1) Applicant's name, permanent address, local address (if any) and telephone number.

(2) Description of the nature of the business or activity including the average quantity, kind and value of the merchandise to be sold.

(3) Applicant's photo identification, which the municipal clerk will photocopy and attach to the application.

(4) The days during which the business is to be conducted.

(5) The name and addresses of the persons from whom the goods making up the stock were or are to be purchased by the applicant.

(6) A statement as to whether or not the applicant has been convicted of any crime, disorderly persons offense or petty disorderly persons offense involving deceptive business practices or fraud, or a violation of any ordinance enacted in other municipalities concerning peddling, solicitation or transient merchandising, when and where the offense(s) occurred and the penalty imposed, if any.

(7) A bond in accordance with N.J.S.A. 45:24-5 in an amount equal to twenty-five percent of the value of the personal property shown in the disclosures required by subsection (b)(2) above but in no event less than one thousand dollars. The bond shall be in effect for a period of one year from the date of license issuance, shall indemnify and pay Princeton any penalties or costs incurred in the enforcement of this section and the purchaser of personal property a sum equal to at least the amount of any payment such purchaser may have been induced to make through the misrepresentation of the applicant, its agents, servants or employees. The bond shall be in a form approved by the municipal attorney.

(8) An instrument in accordance with N.J.S.A. 45:24-6 appointing the clerk as the applicant's true and lawful agent.

(9) If the applicant is an agent, employee or representative, he shall attach to the application a letter from the person or organization for whom the applicant works or represents, authorizing the applicant to act as its agent, employee or representative and assuming responsibility for the applicant's conduct.

(10) All transient merchants are subject to the statutory requirements set forth in N.J.S.A. 45:24-1 *et seq.*, and shall be subject to the penalties set forth therein in the event of a failure to comply with any of said requirements.

(11) All applicants shall submit a copy of a valid certificate of authority issued by the Director of the New Jersey Division of Taxation, pursuant to N.J.S.A. 54:32B-15, empowering the applicant to collect sales tax. Certificates shall not be required for the sale of property exempted from sales and use taxation pursuant to N.J.S.A. 54:32B-8.2. The licensee shall prominently display the original certificate at his place of business as may be authorized by the license, as required by N.J.S.A. 54:32B-15.

(12) All applicants selling food items for immediate consumption shall submit a copy of the board of health license.

**Sec. 14-6. Approval or rejection of application.**

(a) Following the filing of a complete application and payment of the license fee as set forth in section 14-11 to the municipal clerk, the clerk shall forward the application to the chief of police, who shall, as soon as practicable but no later than within thirty days make such investigation, within the limits of the resources available to the chief, which may include background checks, of statements made in the application and the business responsibility and character of the applicant or any employee or agent who shall engage in the licensed activity, for the protection of the public good. Where sufficient cause is shown therefor, the chief of police shall have such additional time as may be reasonably necessary to make the investigation.

(b) If, as a result of such investigation, the character or business responsibility of the applicant or any employee or agent who shall engage in the licensed activity is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and the reasons

therefor and return the application to the clerk. The chief may disapprove an application if such a disapproval is based on one or more of the following findings with respect to the applicant:

(1) Conviction of any crime, disorderly persons offense or petty disorderly persons offense involving deceptive business practices or fraud, or a violation of any ordinance enacted in any municipality concerning peddling, solicitation or transient merchandising.

(2) Record of breaches of peddling, solicitation or transient merchant contracts.

(3) Fraud, misrepresentation or false statements contained in the application for license.

(c) In the absence of such findings, the chief of police shall find the applicant satisfactory and shall endorse his approval on the application and return the application to the clerk.

**Sec. 14-7. Denial or issuance of license; expiration.**

(a) If the applicant or any employee or agent who shall engage in the licensed activity is found unsatisfactory by the chief of police, and he endorses his disapproval upon the application, the clerk shall notify the applicant by mail that the application is disapproved and shall deny issuance of the license. Such notice shall be mailed within five working days following the endorsement of disapproval by the chief of police.

(b) If the application is found to be satisfactory by the chief of police, the clerk shall issue a license addressed to the applicant to conduct the business applied for. The license shall be on a form issued by the clerk's office.

(c) All peddling and soliciting licenses shall expire December 31 of the calendar year in which they are issued unless, by their terms, they expire prior to that time, and shall be limited to the express purpose set forth therein. With respect to transient merchants, the license shall expire no later than one hundred eighty (180) days after its issuance.

**Sec. 14-8. Revocation of license.**

(a) Licenses may be revoked by the chief of police, or his designee, for any of the following causes:

(1) Fraud, misrepresentation or false statements contained in the application for license.

(2) Fraud, misrepresentation or false statement made in the course of carrying out activities pursuant to the license.

(3) Violation of any provision of this article or another Princeton ordinance.

(4) Conviction of any crime, disorderly persons offense or petty disorderly persons offense involving deceptive business practices or fraud.

(5) Violation of ordinances enacted in other municipalities concerning peddling, solicitation or transient merchandising.

(b) Notice of revocation shall be personally communicated to the licensee, and thereafter it shall be unlawful for the licensee or any of the licensee's employees or agents to sell, offer for sale or distribute merchandise or services in the municipality. If a hearing is requested by a licensee, the licensee shall be provided with a notice of the hearing before the chief of police or his designee. The notice shall be in writing, setting forth the grounds of the complaint and the time and place of the hearing. The notice shall be served personally upon the licensee or mailed postage prepaid to the licensee's address as given by the licensee in making the application, at least five days prior to the date set for the hearing, and no more than five days after receipt by the chief of police or his designee of the written request for a hearing.

**Sec. 14-9. Appeal.**

Any person aggrieved by the action of the chief of police or municipal clerk in the denial of an application for a license, or in the decision with reference to revocation of a license, shall have the right to appeal to the council. The council shall not hear any appeal unless the applicant has first made appeal to the chief of police. Such appeal shall be taken by filing with the clerk, within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for a hearing on such appeal. The council shall set a time and place for hearing the appeal and a notice of the hearing shall be given to the applicant. The decision of the council on the appeal shall be final and conclusive.

**Sec. 14-10. General regulations.**

It shall be unlawful for a person to:

(a) Attempt to peddle or distribute merchandise or printed material, or solicit funds or canvass for information, without first having identified himself as a peddler, solicitor, transient merchant or canvasser registered with the municipality and displaying the license issued therefor.

(b) Have exclusive right to any location on public property.

(c) Enter or attempt to enter the land of any resident where such resident has posted or placed a clearly visible sign indicating that such resident does not wish to be disturbed by peddlers or solicitors.

(d) Refuse to leave a private dwelling or property after having been once requested to do so by the owner or occupant thereof.

(e) Shout, cry out, blow a horn, ring a bell, or use any sound making or amplifying device on any streets, parks or public places of the municipality, or upon private property, that would create or become a nuisance or noise disturbance as prohibited elsewhere this Code.

(f) Distribute obscene merchandise or printed material, or printed material that advocates unlawful conduct.

(g) Litter the streets, public places or other property within the municipality by any merchandise or printed material.

(h) Station, place, set up or maintain a cart, wagon, motor vehicle or other vehicle, or allow it to remain on any sidewalk in a way that would:

(1) Restrict, obstruct, interfere with or impede any pedestrian's right-of-way;

(2) Restrict, obstruct, interfere with or impede the ingress or egress from the abutting property;

(3) Create or become a nuisance;

(4) Increase traffic congestion, cause or increase traffic delay or hazard;

(5) Cause or create or constitute a danger to life, health or property.

(i) Peddle, solicit, offer to sell or solicit, or engage in the business of selling except between the hours of 9:00 a.m. and 8:00 p.m.

(j) Peddle using a cart of the dimensions of which exceeds two feet in width, four feet in length and four feet in height including wheel height, while conducting business on any sidewalk.

(k) Use any cart which, when fully loaded with merchandise, cannot be easily moved and maintained under control by the licensee only.

(l) Use, set up, attach, place or permit the use of any table, crate, carton, rack, device or structure of any kind to increase the selling or display capacity of the peddler's cart.

(m) Station, place, set up or maintain a peddler's cart or allow it to remain on any sidewalk if to do so would reduce the unobstructed pedestrian right-of-way.

(n) Engage in the business of peddling within ten feet of any location where the curb has been depressed to facilitate pedestrian or vehicle movement.

(o) Engage in the business of peddling on any sidewalk or along any street within fifteen feet of any fire hydrant, crosswalk or driveway.

(p) Station, place, set up or maintain a peddler's cart or goods against display windows of fixed location businesses, nor shall they be within twenty feet from an entranceway to any building, store, theater, library, school, museum, movie house, sports arena or other place of public assembly, without the permission of the property owner and in such a manner as to restrict, obstruct, interfere with or impede pedestrian or vehicular right-of-way.

(q) Engage in the business of peddling on any sidewalk or along any street within ten feet from intersecting streets or sidewalks.

(r) Engage in the business of peddling within thirty feet of any location where another peddler is engaged in the business of peddling.

(s) Engage in the business of selling at any location without giving a written receipt to each customer for any sale in excess of twenty dollars. The receipt shall show clearly the seller's name, business address, license number, a description of the merchandise sold, and the purchase price, and shall be sequentially numbered.

(t) Engage in the business of peddling on any sidewalk or along any street within ten feet of a bus stop. For purpose of this section, the words "bus stop" shall include the sidewalk and the adjoining street where there is a designated bus stop.

(u) Sell food, drinks, ice cream, confections or other items for immediate consumption unless the peddler has available for public use a litter receptacle which shall be clearly marked and maintained for patronage use, nor shall any peddler leave any location without first picking up, removing and disposing of any trash or refuse remaining from the sales made by him; nor shall any person sell food, drinks, ice cream, confections or other food items for consumption without having first received any permit or license required by the municipality or the board of health for food handling.

(v) Leave any cart unattended at any time or place or leave the same overnight on any sidewalk.

(w) Stop, stand or park any vending cart or motorized vehicle used for vending purposes for more than five minutes for the purpose of selling food and merchandise.

(x) Station, place, set up or maintain a cart, wagon, table, stand, display or vehicle on private property unless the owner has previously secured approval for such use of the property pursuant to the provisions of Code governing land use.

(y) Use any non-motorized carts except at the following location: on the sidewalk running along the south side of Nassau Street from Washington Road to University Place. Vending by means of non-motorized vending carts shall be prohibited in any other locations other than those set forth in this subsection (y).

(z) Use of any motorized vending carts and/or motorized vehicles for vending purposes in any location except on the street.

**Sec. 14-11. Application fee required.**

(a) Each application shall be accompanied by an application fee of one hundred dollars for each individual solicitor or peddler, or transient merchant license, to compensate the municipality for the cost of administering this article, including the investigation and regulation of the conduct of licenses. Such fees will not be refunded if a license is denied or revoked.

(b) No license issued under this article shall be used at any time by any person other than the person to whom it was issued.

(c) Where an organization has several agents peddling, soliciting, distributing merchandise or printed material or services, or canvassing, each agent shall pay the applicable application fee and shall be issued a separate license.

**Sec. 14-12. Exceptions.**

This article shall not affect any of the following persons or activities:

(a) Any person engaged in the delivery, in the regular course of business, of goods, wares, merchandise, or other articles of personal property to the premises of persons who had previously ordered same or were entitled to receive same by reason of prior agreement.

(b) Any nonprofit organization, as defined in section 14-2 of this article, engaged in the solicitation of funds for charitable purposes solely from its members.

(c) Any person engaged in the solicitation of funds for a nonprofit organization, when solicitation occurs on premises owned or controlled by the person soliciting funds or with the permission of the person who owns or controls the premises.

(d) Federal census-taking and surveys taken pursuant to federal, state or local laws.

(e) Any public utility, or its employees, which is subject to the regulation of the State Board of Public Utility Commissioners; provided, however, that such employees shall display the identification badge or card issued by the employer.

(f) Children enrolled in public and private elementary and secondary schools in Princeton, including children peddling or soliciting for schools, school clubs and organizations, Cub Scouts, Boy Scouts, Brownies, Girl Scouts, and similar youth groups.

(g) Any person engaged in the delivery or solicitation of subscriptions for a print media organization provided, however, that said person shall adhere to the general regulations set forth in section 14-10 hereinabove and in addition such persons shall display an identification badge (subject to the approval by the police department) provided by the print media and an information sheet shall be filed with the police department and clerk containing (1) the proposed location of solicitation; (2) the make, model and license plate number of any vehicle being used during such

solicitation; (3) the name of the supervisor of the persons soliciting; and (4) the names of all those soliciting within Princeton on behalf of said print media.

**Sec. 14-13. Penalties.**

Any person who shall solicit or peddle, or operate as a transient merchant within the municipality in violation of any provision of this article shall be subject to the penalties provided for in section 1-6 of this Code. Each violation of a provision of this article shall be considered a separate offense and a separate offense shall be deemed committed on each day during which or on which a violation occurs or continues.