

2014-45

**AN ORDINANCE BY PRINCETON
REGULATING THE HOURS OF OPERATION
OF RESTAURANTS, RETAIL FOOD
ESTABLISHMENTS, RETAIL SALES, AND
PERSONAL SERVICES BUSINESSES ON
PROPERTIES WITHIN OR ABUTTING A
RESIDENTIAL ZONE**

WHEREAS, from input provided by residents of Princeton, the Princeton Director of Planning, and the Princeton Police Department, the Mayor and Council find that a uniform closing time for businesses located on properties within or abutting a residential zone may:

1. Reduce the crowds of individuals who are attracted to businesses located in or in close proximity to residential areas in Princeton, which businesses remain open to the public during the late night and early morning hours;
2. Discourage crowds of individuals from congregating not only on the main streets and thoroughfares but also onto adjoining residential streets, lots and parking areas, which prevents neighborhood residents from sleeping, safely walking their streets, and enjoying the peace and quiet of their homes;
3. Reduce the incidence of disorderly conduct and criminal activities, including loitering, littering, public drinking, drug dealing, noise disturbance and other unlawful acts during the late night and early morning hours which would lead to a commensurate reduction in the need for police presence and calls for police service in or in close proximity to residential areas; and,
4. Reduce debris in residential areas from improperly discarded food containers, wrappings, bottles, cans, utensils and decomposing food products;

and

WHEREAS, the Mayor and Council also find that the public may need access to pharmacies and various types of medical care even during late hours, and that it is therefore in the best interests of the public health, safety and welfare to exempt from the requirements of this ordinance businesses providing medical care, urgent care, or veterinary care and businesses with pharmacies when those pharmacies are open; and

WHEREAS, the Mayor and Council further find that in recognition of the many institutions of higher education located in Princeton and the fact that uses in the zones in which institutions of higher education are permitted serve a resident population that does not follow the normal patterns and hours of activity found in other portions of Princeton, uses located within certain of Princeton's educational zones should also be exempt from the provisions of this ordinance; and

WHEREAS, the Mayor and Council also find that it is appropriate to exempt holders of plenary retail consumption and retail distribution licenses from the provisions of this ordinance, because such holders are regulated on a statewide basis by the state’s Division of Alcoholic Beverage Control, and are subject to liability for the activities of their patrons; and

WHEREAS, the Mayor and Council find that in the final analysis, adopting reasonable limitations on the hours of operation of the businesses identified herein will help balance the needs of Princeton’s businesses and university population against its residents’ right to the peaceful enjoyment of their properties;

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

Section 1. Code of the Borough of Princeton, New Jersey, 1974” Amended and Supplemented. Chapter 22, “Offenses—Miscellaneous” of the “Code of the Borough of Princeton, New Jersey 1974” is hereby amended and supplemented by adding thereto a new section 22-15, which shall read as follows:

Sec. 22-15. Hours of operation for restaurants and eating and drinking establishments, retail food establishments, retail sales, and personal services businesses.

(a) The purpose of this section regulating the operating hours of restaurants and eating and drinking establishments, retail food establishments, retail sales, and personal services businesses in Princeton is to:

1. Improve the quality of life for residents in the residential areas of Princeton, particularly during the late night and early morning hours;
2. Decrease the incidence of nuisance complaints and littering associated with large crowds of individuals congregating in or in close proximity to residential areas in Princeton during the late night and early morning hours, which individually and collectively have a negative impact on the quality of life for residents;
3. Discourage activities that compromise the public safety of residents and business patrons in certain areas of Princeton during the late night and early morning hours; and
4. Provide for the efficient, effective and economical provision of scarce government resources in addressing each of the aforementioned purposes.

(b) For the purposes of this section, the following terms shall have the following meanings:

PERSONAL SERVICES - establishments primarily engaged in providing services involving the care of a person or his or her goods or apparel, including, but not limited to, laundering, shoe repair, hair and body care, tailoring, travel agents, spas, tanning salons, and nutrition weight loss centers.

RESTAURANT AND EATING AND DRINKING ESTABLISHMENTS – any or all of the establishments listed below:

RESTAURANT, SIT-DOWN - an establishment where food and beverages, including alcoholic beverages, are prepared and sold and consumed primarily on the premises, and where food sales constitute more than fifty percent of the gross sales receipts for all food and beverages. Such an establishment may include table or self-service, and food and beverages may be consumed either indoors or in designated outdoor seating areas.

RESTAURANT, CARRYOUT - an establishment where food and beverages are prepared and sold for consumption on or off premises (customer tables or counters typically available). Such an establishment may take phone orders for food and may deliver food to customers.

RESTAURANT, DRIVE-THROUGH - an establishment where food and beverages are prepared and sold for consumption on or off premises, and which includes one or more drive-through customer service windows.

TAVERN or BAR - an establishment where food and beverages, including alcoholic beverages, are prepared and sold and consumed on the premises and where food sales constitute fifty percent or less of the gross sales receipts for all food and beverages.

RETAIL FOOD ESTABLISHMENT - an establishment where food and beverages are offered for retail sale for consumption off premises. Such foods or beverages may be packaged in a ready-to-consume state or may come packaged and sold in bulk quantities. Examples of retail food establishments include without limitation grocery stores, ice cream shops, retail mini-marts, bakeries, and delicatessens.

RETAIL SALES - establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, including, but not limited to, specialty shops and boutiques.

HOTEL – A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, personal services, and recreational facilities.

OPERATING HOURS – The hours during which a business or service is open to the public.

- (c) Restaurants and eating and drinking establishments, retail food establishments, retail sales, and personal services businesses located on a lot within or abutting a residential zone, including any such establishments or businesses within a hotel, shall not be permitted to operate in Princeton between the hours of 2:00 am and 5:00 am.

- (d) The time limitations set forth herein shall not apply to the following:
 - 1. Holders of plenary retail consumption or retail distribution licenses pursuant to the Alcoholic Beverage Law (N.J.S.A. 33:1-1 *et seq.*), which holders are subject to the aforesaid State law and local Code provisions.
 - 2. The sale of prescription or non-prescription (over the counter) medications in pharmacies and in drugstores with pharmacies where the pharmacy remains open beyond 2:00 a.m.
 - 3. Medical care, urgent care or veterinary care practices.
 - 4. Businesses located in the following educational zones: E-1, E-2, E-3, E-5 and AET.
 - 5. Hotels, limited to those services necessary for check-in and check-out.

- (e) Any establishment or business otherwise subject to the time limitations set forth herein shall be permitted to remain open beyond 2:00 a.m. up to six days per calendar year, which may be taken separately or consecutively, subject to the following requirements:
 - 1. Any establishment or business wishing to remain open beyond 2:00 a.m. shall first apply to the Princeton Administrator and Chief of Police for permission to do so, on a form to be developed by the Administrator and Clerk.
 - 2. The application shall be submitted at least ten business days prior to the date on which the establishment or business wishes to remain open beyond 2:00 a.m.
 - 3. The application shall indicate how many other days within the same calendar year the establishment or business has been open beyond the 2:00 a.m. Each day that the establishment or business remains open beyond 2:00 a.m. shall count toward the six-day total allowed as of right within a calendar year.

4. The application shall be accompanied by a reasonable fee to be established by the Administrator and Clerk.
 5. The Chief of Police shall be authorized to impose such conditions as may reasonably be necessary in his or her professional judgment to ensure no undue risk to the public health, safety and welfare.
 6. The Administrator and Chief of Police shall approve or deny the application within five business days of receipt thereof.
- (f) Any person, firm, corporation, or other entity violating any of the provisions of this section shall be subject to the fines and other penalties set forth in section 1-6 of this Code, and each day in which such violation continues shall constitute a separate offense.

Section 2. Applicability. The provisions of this ordinance shall be applicable throughout the municipality of Princeton, and the “Code of the Township of Princeton, New Jersey 1968” shall be deemed amended accordingly.

Section 3. Sunset Provision. The provisions of this ordinance shall automatically terminate and become null and void on the last day of the thirty-sixth month following the date of its adoption, unless re-adopted, modified or extended by the Princeton Mayor and Council.

Section 4. Task Force Established. There is hereby established a task force that shall include representatives of the business community and the public to evaluate and report to the Mayor and Council on the following: (1) the effect of this ordinance on businesses in Princeton; (2) the effect of this ordinance on economic development in Princeton; and (3) the effect of this ordinance on the quality of life in Princeton’s residential neighborhoods. The composition of the task force shall be as established by Council by resolution or ordinance, and its members shall be appointed by the Mayor with the advice and consent of Council. In the alternative, the Council may in its discretion assign the duties and responsibilities of the task force established by this ordinance to an existing task force, including, but not limited to, the Economic Development Task Force, provided such task force includes representatives of the business community and the public as provided for herein. No later than 120 days prior to the expiration of the sunset provision referenced in Section 3 above, the task force shall make one of the following recommendations to the Mayor and Council: (1) that this ordinance continue in full force and effect without a sunset provision; (2) that the sunset provision be continued for an additional fixed period to provide time for further evaluation; (3) that the ordinance be modified; or (4) that the ordinance be repealed or allowed to lapse.

Section 5. Repealer. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Princeton or Code of the Township of Princeton inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 6. Severability. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication

shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section 7. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

I, Kathleen K. Brzezynski, Deputy Clerk of Princeton, County of Mercer, State of New Jersey, do hereby certify that the foregoing is a true copy of an ordinance adopted by the Mayor and Council of Princeton at its meeting held December 15, 2014.



Kathleen K. Brzezynski
Deputy Clerk

The purpose of this ordinance is to require restaurants and food and beverage establishments, retail food establishments, retail sales, and personal services businesses situated on a lot that is located within a residential zone or that abuts a residential zone to close between the hours of 2 a.m. and 5 a.m. The ordinance exempts from its provisions holders of liquor licenses, which are regulated elsewhere in the Code; the sale of prescription or non-prescription medications in pharmacies and in drugstores with pharmacies that remain open after 2 a.m.; medical care, urgent care, and veterinary care practices; hotels, limited to those services necessary for check-in and check-out; and establishments and businesses within Princeton's E-1, E-2, E-3, E-5 and AET educational zones. The ordinance also allows any business or establishment otherwise subject to the ordinance's hours of operation to remain open beyond 2:00 a.m. up to six days per calendar year, upon receipt of the appropriate permit from the Princeton Administrator and Chief of Police. Lastly, the ordinance was revised prior to adoption to add a sunset provision whereby its provisions will automatically terminate thirty-six months from the date of its adoption, and to call for a task force to review the impact of the ordinance and to make recommendations to the Mayor and Council prior to the ordinance's expiration.