

Ordinance #2020-52

AN ORDINANCE BY THE MUNICIPALITY OF PRINCETON AMENDING SECTION 22-15 OF THE “CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974” TO EXCLUDE INDOOR GYMS AND FITNESS FACILITIES FROM THE LIMITATIONS ON HOURS OF OPERATION APPLICABLE TO BUSINESSES IN RESIDENTIAL ZONES AND ON PROPERTIES ABUTTING RESIDENTIAL ZONES

WHEREAS, on December 15, 2014, the Mayor and Council adopted Ordinance 2014-45, which amended the “Code of the Borough of Princeton, New Jersey 1974” (“Borough Code”) to impose limitations on the hours of operation of certain types of businesses as identified therein, in order to help balance the needs of Princeton’s businesses and university population against the rights of Princeton’s residents to the peaceful enjoyment of their properties; and

WHEREAS, said provisions have been codified in section 22-15 of the “Code of the Borough of Princeton, New Jersey, 1974”; and

WHEREAS, as set forth in Code section 22-15(a), the purpose of 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.

and

WHEREAS, many indoor gyms and fitness facilities operate on a twenty-four hour basis as a convenience to their members; and

WHEREAS, the harm sought to be avoided by the provisions of section 22-15 are not typically associated with such facilities; and

WHEREAS, the Mayor and Council therefore wish to exclude such facilities from the limitations on hours of operation set forth in section 22-15;

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

Section 1. Section 22-15 of the Code of the Borough of Princeton, New Jersey, 1974
Amended. Section 22-15 in Chapter 22, “Offenses—Miscellaneous” of the “Code of the Borough of Princeton, New Jersey 1974” is hereby amended to add indoor gyms and fitness facilities to the list of exemptions set forth in section 22-15(d), which shall read as follows (new text is underlined and in bold **thus**):

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.

6. Indoor gyms and fitness facilities.

(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. 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 3. 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 4. Effective Date. This ordinance shall take effect upon its passage and publication, and as otherwise required by law.

Delores A. Williams, Municipal Clerk

Liz Lempert, Mayor

Ordinance Introduced:
Ordinance Adopted:

STATEMENT OF PURPOSE: If adopted, this ordinance would exempt indoor gyms and fitness facilities from the limitations on hours of operation applicable to 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.