



Legislation Text

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AN ORDINANCE REPEALING AND REPLACING TITLE VIII, BUSINESSES AND OCCUPATIONS, CHAPTER 23, PRECIOUS METALS AND GEMS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED AND REQUIRES THE USE OF ELECTRONIC DATABASE RECORDING FOR SECONDHAND AND TRANSIENT DEALERS.

WHEREAS, theft of property negatively affects the residents of the City of Newark and the surrounding area, and has a negative impact on citizens and businesses; and

WHEREAS, the Newark Municipal Council believes that a thorough investigation, identification, maintenance of records, and licensing of secondhand dealers in the City of Newark is required and would be in the interest of public safety and general welfare, consistent with and in accordance with N.J.S.A. 51:5-1 et seq. and N.J.S.A. 51:6-1 et seq.; and

WHEREAS, it is the purpose and intent of this Chapter to assist law enforcement officials and victims of crimes in recovering stolen gold, silver, precious and semiprecious metals, gems, gemstones, jewelry, secondhand goods and/or other articles by requiring electronic reporting, maintenance and distribution criteria for secondhand and transient dealers; and

WHEREAS, the use of electronic reporting systems for this type of information is common across the United States. These systems are proved to dramatically increase law enforcement's ability to efficiently and effectively collect transaction data, to make matches of sold or pawned property to stolen property, and to identify trends in the selling or pawning of stolen property.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, AS FOLLOWS:

SECTION 1: ADOPTION OF ORDINANCE

Title VIII, Businesses and Occupations, Chapter 23, Precious Metals and Gems, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is hereby repealed and replaced to read in its entirety as follows:

8:23-1 Definitions

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings ascribed herein. Words used in the present tense shall include the future, words in the plural number shall include the singular number and words in the singular number shall include the plural number. The word "shall" is always mandatory and not merely directory.

a. **Acceptable Identification:** Acceptable forms of identification include a current valid photo New Jersey Driver's License or New Jersey Identification Card, a current valid photo driver's license issued by another state in the United States, a valid United States Passport, or other verifiable valid US Government issued photo identification with address.

b. **Article:** Any article of merchandise, including any portion of such article, whether a distinct part thereof or not, including every part thereof whether separable or not, and also including material for manufacturer. This term shall also include the definition of "Article" as the same as in appears in N.J.S.A. 51:6-1, as that statute may be amended from time to time.

c. **Buyer:** Any person, partnership, corporation, sole proprietorship, association, or other entity, who or which, through any means, buys, transfers or obtains from consignment articles made of or containing gold, silver, precious or semiprecious metals or gems, other metals, jewelry, or secondhand good as defined in this chapter, and includes anyone advertising the purchase or sale of any of the aforementioned items.

d. **Database:** A computerized internet capable database with hardware and software as designated by the Public Safety Director shall be chosen by the Public Safety Director using a fair and open process.

e. **Dealer:** Any person, partnership, corporation, sole proprietorship, association, or other entity, who or which, through any means, buys, transfers or obtains from consignment articles made of or containing gold, silver, precious or semiprecious metals or gems, other metals, jewelry, other metals, or secondhand goods as defined in this chapter, and includes anyone advertising or soliciting the purchase or sale of any of the aforementioned items.

f. **Designated Vendor:** A person or entity who is appointed or designated by the Public Safety Director to collect and maintain precious metal transaction information or other purchase information as defined herein, for the City of Newark. The Public Safety Director's appointment or Designated Vendor shall be done using a fair and open process.

g. **Employee:** Any person working for a buyer or a dealer, whether or not the person is in the direct employment of the Buyer or Dealer or works full time or part time, who handles gold, silver, precious and semi-precious metals or gems, jewelry, secondhand goods, other metals, and/or other articles for the Buyer or Dealer.

h. **Gem:** Any precious or semiprecious stone or item containing a precious or semiprecious stone customarily used in jewelry or ornamentation.

i. **Gift Card:** Is a restricted monetary equivalent or script that is issued by retailers or banks to be used as an alternative to a non-monetary gift.

j. **Gold:** Any article or product with a gold content, without regard to the fineness thereof.

k. **Itinerant Business:** Any business conducted intermittently within the City of Newark or at varying locations.

l. **Minor:** Any person under the age of eighteen (18) years.

m. Other Metals: Any item made of aluminum, copper, magnesium or other ferrous metals.

n. Pawn: A bailment of personal property as security for any debt or engagement redeemable upon certain items and with the implied power of sale or default.

o. Person: Any individual natural person, partnership, joint venture, business, society, associate, club, trustee, trust, corporation, or unincorporated group, or an officer, agent, employee, servant, factor or any form of personal representative of any thereof, in any capacity, acting for self or on behalf of another.

p. Precious or Semiprecious Gem: Comprised of gold, silver, sterling, platinum, and/or their alloys as defined in N.J.S.A. 51:5-1 et seq., N.J.S.A. 51:6-1 et seq. and/or N.J.S.A. 51:6A-1 et seq., gems, gemstones, coins and all forms of jewelry herein contained, including, but not limited to, those categories known as “diamonds, rubies, pearls and sapphires” and commonly called a “jewel”.

q. Public: Individuals and retail sellers, not to include wholesale transactions or transactions between merchants.

r. Public Safety Director: The Public Safety Director of the City of Newark or his designee/representative.

s. Purchase: Includes any exchange of gold, silver, precious or semiprecious metals or gems, other metals, jewelry, or secondhand goods as defined in this chapter for anything of value. A purchase or payment need not be made by way of money in order to constitute a purchase for the purpose of this Chapter. For purposes of this Chapter, a purchase may include an exchange, deposit, pledge, conveyance or trade of any tangible or intangible article.

t. Regulated Activity: The purchase of any used item as defined in this Section 8:23-1.

u. Reportable Transaction: Every transaction conducted by a Dealer in which precious metals, or other tangible property are purchased or exchanged from or with the public.

v. Secondhand Goods: Any article previously sold, acquired, exchanged, conveyed, traded or otherwise formerly owned, including but not limited to scrap gold, old gold, silver, jewelry, home electronics/audio and visual equipment, musical instruments, telephones and telephonic equipment, including cellular devices and cellular equipment, scales, computers, computer hardware and software, typewriters, word processors, scanners, sporting goods of all kinds, antiques, platinum, all other precious and semiprecious metals, tools of any kind, televisions, DVR's, GPS, camcorders, car stereos, gift cards, furniture, clothing, collectibles (for example: stamps, coins, comic books, sports memorabilia etc.) other valuable articles or as listed in Appendix I.

w. Seller: Any person, partnership or corporation who or which, through any means, sells transfers or offers by consignments gold, silver, precious or semiprecious metals, gems or jewelry or other metals as defined in this chapter.

x. Silver: Any article or product with a silver content, without regard to the fineness thereof.

y. Transient Buyer: A Dealer who has not been in a retail business continuously for at least six (6) months at that address in the municipality where the Dealer is required to register or who intends to close out or discontinue all retail business in the City of Newark within six (6) months. The term Transient Buyer will also include a Dealer who intend to close out or discontinue all retail business in the City of Newark within six (6) months or as so defined in N.J.S.A. 51:6a-5 and N.J.A.C. 13:47C-1.1. Vendors doing business during a community event sponsored or sanctioned by the City of Newark shall not be considered a Transient Buyer for the purpose of this Chapter.

z. Used Item containing gold, silver or other precious metals and stones: Any item containing gold, silver or other precious metals or stones, previously sold, traded or transferred to a consumer for the personal use of enjoyment of such consumer.

8:23-1.1 Findings and Intent

a. The City of Newark Municipal Council hereby finds that there is a need to regulate and control the buying and selling, advertising and/or solicitation of gold, silver, precious and semi-precious metal or gems, jewelry, other metals, secondhand goods and/or other articles in order to prevent the easy disposal of items which have been unlawfully obtained as the result of crime while protecting and recognizing the legitimate businesses which are engaged in the buying and selling of gold, silver, precious and semiprecious metals, gems, gemstones, jewelry, secondhand goods and/or other articles.

b. The City of Newark Municipal Council hereby finds that there is a need to regulate and control the buying and selling of other metals such as aluminum, copper, magnesium and ferrous which have been unlawfully obtained as the result of a crime while protecting and recognizing the legitimate businesses which are engaged in the buying and selling of such metals in accordance with N.J.S.A. 45-28-1 et seq. and the rules and regulations promulgated thereunder.

c. The City of Newark Municipal Council hereby finds that there is a need to regulate and control the buying, selling advertising and/or solicitation of gift cards and secondhand goods which have been unlawfully obtained as the result of a crime while protecting and recognizing the legitimate businesses which are engaged in the buying and selling of such cards and goods in accordance with N.J.S.A. 45:22-1 et seq. and the rules and regulations promulgated thereunder.

d. It is the intent of this Chapter to assist law enforcement officials and victims of crimes in recovering those items identified in paragraph a. above by requiring reasonable reporting, maintenance and distribution criteria for Buyers, Dealers and Transient Buyer as defined in this Chapter.

8:23-2 License Required

a. No person shall carry on the business of purchasing precious metals or gems in the City of Newark without being duly licensed for that purpose by the Public Safety Director.

b. Any person who is to be governed by this Chapter, who is engaged in the purchase of precious metals or gems in the City of Newark prior to the effective date of this Chapter, shall apply for licensure within thirty (30) days of the effective date.

8:23-3 Place of Business Designated; Separate License Necessary

Every license granted to a person under this Chapter shall designate the premises in which the person shall be allowed to conduct the business of purchasing precious metals or gems in the City of Newark, New Jersey. A separate license must be obtained for each location to be used by the person for the purpose of purchasing precious metals and gems.

8:23-4 License Fee (Commencement and Expiration of License)

Any fees previously established shall be in addition to the fee or cost associated with the Dealers obligation to comply with Section 8:23-8 of this ordinance mandating the electronic reporting of all transactions.

8:23-5 Application for License; Contents; Accompanying Items.

a. Application for a license under this Chapter shall be made to the Public Safety Director on forms provided by same. The application shall be made at least thirty (30) days before the proposed date of the commencement of the business.

b. The application shall be made under oath and if the applicant is not a natural person, the application may be made by any officer or partner of the applicant and shall disclose the following information:

1. Name of Applicant.
2. Address of the premises at which the business will be conducted.
3. Names of the individual(s), partners, officers of the corporation, and the individual(s) actually conducting the day to day operation of the business at the location listed in the application.
4. Current home address, current telephone number, social security number and date of birth of person(s) mentioned in 1. and 3. above.
5. Whether or not any of the individuals mentioned in subparagraphs 1. and 3. above has ever been convicted of a crime or violation of any Federal or State statute or municipal ordinance. If so, details of any such convictions shall be disclosed fully including dates thereof.
6. A photograph and a complete set of fingerprints of any individual(s) actually conducting the day to day operation of the business at the premises listed in the license.
7. If the individual(s) who will conduct the day to day operation of the business changes, the licensee(s) shall have the affirmative duty to amend the application within five (5)

days thereof to conform to the requirements of this chapter.

8. A listing of the hours when the business will conduct the purchase of precious metals, gems and secondhand goods in the City of Newark.

8:23-6 Contents of License; Display

a. All licenses issued under this Chapter shall contain the date of issue; the name of the person to whom issued; the address of premises at which the licensed business will be conducted and the expiration date of the licensee.

b. The license shall be exhibited and conspicuously displayed upon the premises in which the business is licensed.

8:23-7 Conduct of Business; Purchase Record Book; Type of Book; Contents; Record of Transactions to be maintained

a. Any person licensed under this Chapter shall enter or cause to be entered in a record book any transaction of the purchase of precious metals, gems or secondhand goods. The record book shall be of a non-loose leaf form, with all pages numbered in sequence. All entries shall be made in ink. There shall be no spaces between entries and each entry shall be numbered in sequence.

b. Each entry in the record book shall contain the following information:

1. Date and time of purchase.
2. Detailed description of items purchased.
3. Name, address and age of the seller.

4. Type of identification presented: the purchaser who shall be at least eighteen (18) years of age, shall require that the seller who shall be at least eighteen (18) years of age, possess current reliable identification. The purchase record book shall be kept at the licensed premises and shall be available for inspection by any law enforcement officer upon demand without necessity for any advance notice.

c. Any person licensed under this Chapter shall keep in his possession all precious metals and gems and secondhand goods purchased in compliance with the requirements of this Chapter for a period of not less than seven (7) business days from the time of purchase.

8:23-8 Use of Electronic Database

a. In addition to the record book requirements of this Chapter, the following Record of Transactions shall also be placed in effect. Every Licensee within the City of Newark shall, upon the purchase, receiving for pawn, or receiving for consignment, any property, precious metals, other

metals or secondhand goods as defined in Section 8:23-1, or as described in Appendix I, from the public, shall be required to record, using a unique transaction number on a numbered receipt, the name, address and telephone number of the purchaser, the name, address and telephone number of the seller or sellers; the time and date of the transaction; the net weight in terms of pounds, pennyweight (Troy) or kilograms/grams of the precious metals; fineness in terms of karats for gold, and sterling or coin for silver in accordance with N.J.S.A. 51:5-1 et seq. and N.J.S.A. 51:6-1 et seq. and any property containing a serial number. This information is to be documented through the use of an electronic database software system as designated by the Public Safety Director. The information which shall be entered, in addition to the above, is listed in 8:23-8(c) below. These records shall be subject to the inspection of any authorized police officer or any sworn law enforcement officer acting in the performance of their duty.

b. Dealer shall be responsible for any and all costs associated with purchasing, maintaining and updating the electronic database software system, as well as any annual licensing or subscription fees. Said licensing and/or subscription fees associated with the electronic database software system shall be in addition to any other fees or costs required under this Ordinance. The cost will be a nominal yearly fee, not to exceed \$300.00 per year. Forms submitted under this section shall be kept confidential and are not public records.

c. Through the use of applicably required computer equipment, and using the electronic format approved by the Public Safety Director, every dealer shall enter all transactions into the electronic database by noon next business day from the date of purchase or receipt or property for pawn, or consignment. The Public Safety Director may promulgate rules and regulations that allow for the completion and filing of electronic forms and information. The information entered will contain the information in the Section 8:23-8(a) above, plus the following:

1. The name, address, date of birth, telephone number and acceptable identification number of the seller;
2. The receipt number;
3. A full description of the item or items purchased, or pawned by the seller, including but not limited to, marks, numbers, dates, sizes, shapes, initials, monograms and serial numbers, face value and identifying number of gift cards;
4. The price paid for the item and the method of payment (such as, cash, check, trade, etc.);
5. The form must be signed by the seller;
6. The form must be legible bearing the name of the clerk or the Dealer who made the transaction so as to readily identify that individual;
7. A color photograph or color image of the seller's presented acceptable identification; and
8. A color photograph or color image of all items sold, trade, purchased, receiving for pawn, or receiving for consignment. When photographing or imaging all items must be

positioned in a manner that makes them readily and easily identifiable.

d. In the Event of a Database failure, or Dealer's computer equipment malfunction, all transaction information is required to be submitted on paper forms approved by the Chief of Police within twenty-four (24) hours from the date of purchase. In the event paper forms are used, the dealer is responsible to enter all transaction information set forth in Section 8:23-8, into the database as soon as possible upon the Dealer's equipment being repaired or replaced, or the database coming back into service, however, it shall be no later than forty-eight (48) hours. Failure by the Dealer to properly maintain computer equipment in a reasonable fashion, or failure by the Dealer to replace faulty computer equipment, may result in the dealer being cited for a violation of the ordinance subsequently being subject to penalties for doing so including revocation of the Dealer's Business License under Section 8:23-12.

8:23-9 Limitation of Transactions with Same Seller

Dealer payment to sellers in cash shall be limited to two (2) transactions during a seven (7) day period for the same seller. The seven (7) day period will commence on the day of the first transaction and end seven (7) days after the transaction, i.e. if transaction #1 occurs on Monday the seven (7) day period ends on Sunday. Furthermore, no cash payments shall be made to the same sellers who make more than five (5) transactions in any given thirty (30) day period. Sellers making transactions over the number of proscribed weekly and monthly periods will be paid by the Dealer by means of a bank check drawn from the Dealer's Business account.

8:23-10 Examination of Books and Records; Seizure of Articles

It shall be the requisite duty of the Dealer, and of every person in the Dealer's employ, to admit to the premises during business hours any member of the Newark Police Division or other sworn law enforcement officer acting in the performance of their duty to examine any database, book, ledger, or any other record on the premises relating to the purchase, receiving for pawn, or receiving for consignment, any property, any precious metals, other metals, or second hand goods as defined in Section 8:23-1 or as described from Appendix I, from the public. Newark Police Officers or other law enforcement officer acting in the performance of their duty are empowered to take possession of any article or official has responsible suspicion to believe the article is missing or stolen. A receipt will be provided to the dealer for any property seized by the Newark Police Division or other law enforcement officer.

8:23-11 Grounds for Denial of License

No person shall be licensed under this Chapter if the person has been convicted of a crime of receiving stolen property.

8:23-12 Suspension and Revocation of license, notice and hearing

Any license issued under this chapter may be suspended or revoked, after due notice and hearing, by the Director, for any violation of this Chapter or for failure to comply with the requirements

of same.

8:23-13 Penalty

Any person who shall violate any provision of this chapter or shall fail to comply with any of the requirements thereof shall, upon conviction thereof, be punished by a fine not exceeding five hundred (\$500.00) dollars or by imprisonments for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed commencing on each day during or on which a violation occurs or continues.

8:23-14 Non-Applicability

a. This Chapter shall not apply to purchases made by Dealers from wholesalers or other legitimate suppliers, but shall only apply to those purchases made from by the public which includes retailer sellers. The Dealer shall keep records of all wholesale purchases for a period of six (6) months from the date of purchase, which records shall be opened to investigation by the Newark Police Division or any sworn law enforcement officer in the performance of their duties.

b. The following are exempt from the requirements of this ordinance:

1. Garage Sales: As used in this section, a garage sale is defined as the sale of used personal property by the lawful resident of residentially zoned property that is not conducted on a periodic or ongoing basis. A garage sale shall be deemed to be periodic or ongoing if a garage sale is held by any lawful resident of residentially zoned property more than five (5) days in any consecutive ninety (90) day period;

2. Judicial sales or sales by executors or administrators;

3. Auctions of real estate;

4. The occasional sale, purchase, or exchange of coins or stamps by a person at his permanent residence or in any municipally owned building who is engaged in the hobby of collecting coins or stamps and who does not solicit the sale, purchase, or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television, or other form of printed or electronic advertising.

5. Sales conducted by governmental, civic, patriotic, fraternal, educational, religious or benevolent organizations which have been in active and continuous existence for at least one (1) year prior to the holding of the sale, which are incorporated as a not for profit corporation by the State;

6. Sales or purchases which are regulated by the licensing laws of the State of New Jersey, including automobile dealers, used parts dealers and automotive parts recyclers;

7. Antique Dealers: as used in this section, an antique dealer is defined as one who derives seventy-five (75%) percent of his/her gross sales each year from the sale of antiques and/or primitives. As used in this section, an antique or primitive is defined as an old and valuable art object or article no longer in production that is at least fifty (50) years old. As used

in this section, the term “sale” does not include an exchange, trade, or swap of items.

8. Clothing that has a value under \$1000.00: As used in this section, clothing is defined as anything people wear including shirts, blouses, t-shirts, pants, slacks, skirts, dresses, gowns, jackets, coats, outerwear, under garments, hats, and scarves. Clothing as used in this section also includes shoes, boots, handbags, purses, belts and other fashion accessories.

SECTION 2. REPEALER

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflicts.

SECTION 3. SEVERABILITY

If any section, part of any section, or clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this Ordinance. The Newark Municipal Council declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

SECTION 4. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

APPENDIX I

Property as Follows:

Antiques

Antique weapons, both bladed and firearms

Clothing

Collectibles (such as stamps, coins, comic books, sports memorabilia, etc.)

Furniture

Gems

Gift cards

Jewelry

Musical instruments

Paintings

Precious metals, including, but not limited to:

- Coins
- Gems and Gem stones
- Gold (old gold, scrap gold, etc.)

- Silver
- Sterling
- Platinum

Portable Electronics, including but not limited to:

- Blue Ray Players/Records
- Camcorders
- Cameras
- Car Stereos
- Cellular Telephones and accessories
- Computers (desktop, laptop, tablets, computer hardware and software)
- Computer printers
- DVD players/Recorders
- Game systems
- Home electronics/audio and visual equipment
- Ipods/Ipads
- MP3 Players
- Scanners
- Word Processors

Scales

Sporting Goods of all kinds

Televisions

Any and all items of value

STATEMENT

This Ordinance repeals and replaces Title VIII, Businesses and Occupations, Chapter 23, Precious Metals and Gems, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented and requires the use of electronic database recording for secondhand and transient dealers.