

Ordinance #2015-1163

**BOROUGH OF MANVILLE
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

AN ORDINANCE FOR THE BOROUGH OF MANVILLE ENTITLED “DEALERS OF PRECIOUS METALS, GEMS AND SECONDHAND GOODS ”

WHEREAS, the Somerset County Prosecutor is asking all municipalities with a police department within the County to enact an ordinance to track precious metals and other valuables at pawn/coin/jewelry shops within their respective Municipalities; and,

WHEREAS, the Borough of Manville wishes to cooperate in this endeavor.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Manville, County of Somerset, State of New Jersey that the Borough Council wishes to amend, revise and supplement the Borough Code of the Borough of Manville, County of Somerset, State of New Jersey, most notably Chapter III, entitled “Police Regulations” by adding a new Section 3-16, entitled “Dealers of Precious Metals, Gems and Secondhand Goods” as follows:

3-16 DEALERS OF PRECIOUS METALS GEMS AND SECONDHAND GOODS.

3-16.1 Purpose and Intent.

The purpose and intent of this section is to assist law enforcement officials and victims of crime in recovering stolen precious materials, gems, gemstones and/or other articles by requiring minimum reporting, maintenance and distribution criteria for secondhand and transient dealers.

No person shall use, exercise or carry on the business, trade or occupation of buying scrap gold, old gold, silver, jewelry, home electronics/audio and visual equipment, musical instruments, telephones and telephonic equipment, scales, computers, computer hardware and software, typewriters, word processors, scanners, sporting goods of all kinds, antiques, platinum, all other precious metals, tools of all kinds, televisions, DVRs, GPS, camcorders, car stereos, gift cards, furniture, clothing or other valuable articles, hereinafter referred to as “secondhand goods or articles,” or being a secondhand dealer within the Borough of Manville without having first obtained a license from the Borough of Manville as set forth herein.

3-16.2 Definitions.

For the purposes of this section, 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.

Acceptable identification shall mean acceptable forms of identification which include: a current valid New Jersey Driver’s License or Identification Card, a current valid photo driver’s license issued by another US state, a valid United States Passport, or other verifiable US government-issued identification.

Article shall mean 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 manufacture, and as so defined in N.J.S.A. 51:6-1.

Chief of Police shall mean the Chief of Police of the Borough of Manville or his designee/representative.

Database shall mean a computerized internet capable database with hardware and software compliant to that set by the Chief of Police.

Dealer shall mean any person, partnership, corporation or other entity, whether permanent or itinerant, who on one or more occasions (through any means) buys or sells or otherwise exchanges or trades secondhand gold, silver, precious metals, gems, or jewelry, and includes anyone advertising the purchase or sale of any of the aforementioned items.

Designated vendor shall mean a person or entity that is appointed or designated by the Chief of Police who is authorized to collect and maintain precious metal transaction information, or other purchase information as defined herein, for the Borough of Manville.

Gift card shall mean a restricted monetary equivalent or script that is issued by retailers or banks to be used as an alternative to a non-monetary gift.

Itinerant business shall mean any business conducted intermittently within the Borough of Manville or at varying locations within the Borough of Manville.

Person shall mean 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.

Precious metals shall be comprised of gold, silver, 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 shall also be covered by this definition.

Public shall mean individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.

Purchase shall mean the exchange of money and the exchange, deposit, pledge, sale, conveyance or trade of any tangible or intangible article.

Reportable transaction shall mean every transaction conducted by a dealer in which precious metals, or other tangible property, are purchased or exchanged from or with the public.

Secondhand goods shall mean 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, telephones and telephonic equipment, scales, computers, computer hardware and software, coins, electronic tablets, cameras, scanners, sporting good of all kinds, antiques, platinum, all other precious metals, tools of all kinds, televisions, DVRs, GPS, camcorders, car stereos, gift cards, furniture, clothing or other valuable articles.

Transient buyer shall mean a dealer who has not been in any retail business continuously for at least six (6) months at any address in the Borough of Manville where the dealer is required to register or who intends to close out or discontinue all retail business in the Borough of Manville within six (6) months of receiving a license, as defined in N.J.S.A. 51:6A-5 and N.J.A.C. 13:47C-1.1.

3-16.3 Application and Issuance of License

a. Initial License Application Process

Every dealer intending on conducting business within the jurisdiction of the Borough of Manville shall first make application to the Borough Clerk and shall set forth the name and address of dealer, his or her age, whether or not he or she is a citizen of the United States and whether or not he or she has been convicted of a crime, the place of conviction, and the date thereof.

A dealer of previous metals, gems or gemstones or secondhand goods shall, prior to buying, attempting to buy or offering to buy shall be required to be fingerprinted and shall consent to an investigation of the applicant's moral character and business responsibility as deemed necessary, by the Borough of Manville Police Department, for the protection of the public welfare. In the event that the dealer is a business entity other than a sole proprietorship, the officers in a corporation or the partners in a partnership, or limited partnership, shall be deemed to be the applicant(s) who shall be fingerprinted and investigated in accordance with this section.

Upon initial application to the Borough Clerk, each dealer shall be provided with an application prescribed by the Borough of Manville Police Department and shall provide the following information on said application:

1. Name and address of dealer
2. Address from which dealer shall conduct business.
3. Copy of valid zoning and/or construction permits from the Borough of Manville.
4. Proof that dealer has obtained computer equipment and software required in subsection 3-16.6 of this section for purposes of reporting all transaction data in electronic format to the Borough of Manville Police Department.

a. Contingency. Upon completion of the investigation, the Chief of Police shall either approve or deny the license based upon the results of the Borough of Manville Police Department investigation. No license shall be issued without the approval of the Chief of Police or his or her designee.

b. Renewal. All renewal applications are to be received in the Borough Clerk's office no later than January 10th of each year. In the event that the Dealer is a business entity other than a sole proprietorship, if the business entity took on a new officer(s) or partner(s) within the preceding year, the new officer(s)/partner(s) shall be deemed to be the applicant(s) who shall be fingerprinted and investigated in accordance with subsection "a" above, "Initial License Application Process."

In the event a Dealer fails to file a RENEWAL application by January 31st of each year, the Dealer (applicant) will be assessed a Fifty (\$50.00) Dollar penalty.

In the event a Dealer fails to file a RENEWAL application after January 31st and after receiving notice by the Borough of Manville Police Department and given ten (10) business days to file such RENEWAL application, the Dealer license may be revoked following the process as outlined in Section 3-16.5 set forth below.

3-16.4 License Fees; Nontransferability .

- a. Each application for a dealer of secondhand goods license shall be accompanied by an annual fee of Three Hundred Dollars (\$300.00) payable to the Borough Clerk by January 10th annually.
- b. A license issued under the provisions of this section shall not be transferrable and shall terminate on December 31st of the year in which said license is issued.
- c. No license fee shall be pro-rated.

3-16.5 Revocation of License.

- a. Licenses issued under the provisions of this section may be revoked by the Chief of Police after a hearing upon notice to the applicant for any of the following causes:
 1. Fraud, misrepresentation, or false statement contained in the application for license;
 2. Fraud, misrepresentation, or false statement made in the course of carrying on the business of purchasing secondhand precious metals, gems and/or jewelry;
 3. Any violation of this Section;
 4. Conviction of any crime or disorderly persons offense involving moral turpitude; and/or;
 5. Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- b. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) calendar days prior to the date set for the hearing.

3-16.6 Dealers' Responsibilities, Requirements and Record Keeping.

Every dealer within the Borough of Manville shall, upon the purchase of any precious metals, or secondhand goods from the public, be required to do as follows:

- a. Record 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 Troy, 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. This information is to be documented through use of an electronic database software system as designated by the Chief of Police. These records shall be subject to the inspection of any sworn police officer of the State of New Jersey.
- b. Through the use of applicably required computer equipment, and using the electronic format approved by the Chief of Police, enter all transactions into the electronic database within twenty-four (24) hours from the date of purchase. The information entered will contain the information in Subsection 3-16.6a above, plus the following:
 1. A physical description of the seller;
 2. The receipt number;
 3. A full description of the item or items purchased, including but not limited to, marks, numbers, dates, sizes, shapes, initials, monograms and serial numbers.
 4. The price paid for the item;
 5. The form must be signed by the seller;
 6. The form must be legibly initialed by 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 identification;
 8. A color photograph or color image of all items sold. When photographing or imaging, all items must be positioned in a manner that makes them readily and easily identifiable.
 9. Items should be grouped together when photographing or imaging; each item will have its own color photograph or color image.
- c. The precious metals are to be made available for inspection by the Chief of Police of the Borough of Manville for a period of ten (10) calendar days from the date the information required above is received by the Chief of Police on the approved form. The precious metals shall remain in the same condition as when purchased and shall not be changed, modified, melted or disposed of by the purchaser until the ten (10) calendar day period has expired. During this ten (10) calendar day period, the precious metals shall be placed in public view at the purchaser's place of business.
- d. In the event of a database failure, or a dealer's computer equipment malfunction, all transaction information is required to be submitted on paper forms approved by the Chief of Police. In the event that paper forms are used, the dealer is responsible to enter all transaction information into the database as soon as possible upon the dealer's equipment being repaired or replaced, or the database coming back into service. 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 Section and subsequently be subject to the penalties for doing so.

- e. Dealer payment to the sellers in cash shall be limited to two (2) transactions during a seven (7) calendar day period for the same seller. The seven (7) calendar day period will commence on the day of the first transaction and end seven (7) calendar days after the transaction (i.e., if the 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) calendar day period. Sellers making transactions over the number of prescribed weekly and monthly periods will be paid by the dealer by means of a bank check drawn from the dealer's business account.
- f. It shall be the requisite duty of every dealer, and of every person in the dealer's employ, to admit to the premises during business hours any sworn police officer of the State of New Jersey to examine any database, book, ledger, or any other record on the premises relating to the purchase of precious metals from the public, as well as the articles purchased or received, and to take possession of any article known by the police officer to be missing or to have been stolen, or where the police officer has probable cause to believe the article is missing or stolen.

3-16.7 Non-applicability.

This Section shall not apply to purchases made by jewelers or other dealers from wholesalers or other suppliers, but shall only apply to those purchases made from the public or other retail purchases. The dealer shall keep records of all wholesale purchases for a period of five (5) years from the date of such purchase, which records shall be opened to investigation by the Borough of Manville Police Department.

3-16.8 Purchases from Minors.

No dealer within the Borough of Manville shall purchase any precious metals from any person under the age of eighteen (18) years.

3-16.9 Violations and Penalties.

Violations of any provision of this Section shall, upon conviction thereof, be punished by a minimum fine of One Hundred Dollars (\$100.00) or a maximum of Two Thousand Dollars (\$2,000.00) or by imprisonment for a term not exceeding ninety (90) days or by a period of community service not exceeding ninety (90) days or a combination of the penalties. Each and every violation shall be considered a separate violation. Every day that a violation continues shall be a separate violation. Each violation shall result in an additional ten (10) calendar day suspension. Any person who is convicted of violating the provisions of this Chapter within one (1) year of the date of a previous violation and who was fined for the previous violation may be sentenced by the Court to an additional fine as a repeat offender. The additional fine imposed as a repeat offender shall not be less than the minimum or exceed the maximum fine provided herein, and same shall be calculated separately from the fine imposed for the violation of this Section.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

- 1) Any ordinance or portions of ordinances which are inconsistent with this Ordinance shall be updated as to their inconsistencies only.

- 2) If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provisions or paragraphs so declared invalid shall be separable from the remainder or any portion thereof.
- 3) This Ordinance shall take effect on January 1, 2016, and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40A:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

Borough of Manville,



Angelo Corradino, Mayor

ATTEST:



Patricia A. Zamorski, Borough Clerk

ORDINANCE #201 5-1163

FIRST READING:

ROLL CALL

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		ONDERKO	√			
		ASHER	√			
		CAMACHO	√			
√		GREGOR	√			
		SKIRKANISH	√			
	√	SZABO	√			
		MAYOR CORRADINO				

PASSED this 13th day of July, 2015.

Patricia A. Zamorski

Attest:
Patricia A. Zamorski, Borough Clerk

SECOND READING:

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		ONDERKO	√			
	√	ASHER	√			
		CAMACHO	√			
√		GREGOR	√			
		SKIRKANISH	√			
		SZABO	√			
		MAYOR CORRADINO				

ADOPTED this 10th day of August, 2015

Patricia A. Zamorski

Attest:
Patricia A. Zamorski, Borough Clerk