

**BOROUGH OF BERLIN**

**ORDINANCE NO. 2015-02**

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF BERLIN  
ENTITLED "DEALERS IN PRECIOUS METALS, GEMS AND  
SECONDHAND GOODS"**

**WHEREAS**, the Borough of Berlin (Borough") is a municipal entity organized and existing under the laws of the State of New Jersey and located in Camden County; and

**WHEREAS**, the Borough recognizes that burglaries and theft are an ongoing issue; and

**WHEREAS**, the Borough seeks to aid the Police Department in the recovery of stolen property; and

**WHEREAS**, the Borough seeks to hold businesses accountable and deter criminals from selling stolen property within the Borough; and

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Berlin, County of Camden, State of New Jersey, as follows:

**Section 1:** Chapter 238 of the Code of the Borough of Berlin, entitled "Dealers in Precious Metals, Gems, and Secondhand Goods", be amended in its entirety to read as follows:

**Chapter 238**

**DEALERS IN PRECIOUS METALS, GEMS AND SECONDHAND GOODS**

§ \_\_\_\_\_ **PURPOSE AND INTENT.**

The purpose and intent of this Chapter is to assist law enforcement officials and victims of crime in recovering stolen precious metals, 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 Berlin without having first obtained a license from the Borough of Berlin Police as hereinafter provided.

§ \_\_\_\_\_ **DEFINITIONS.**

For the purposes 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.

- **ACCEPTABLE IDENTIFICATION:** Acceptable forms of identification 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:** 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:** the Chief of Police of the Borough of Berlin or his designee/representative.
- **DATABASE:** A computerized internet capable database with hardware and software compliant to that set by the Chief of Police.

- **DEALER:** 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:** A person or entity who 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 Berlin.
- **GIFT CARD:** is a restricted monetary equivalent or scrip that is issued by retailers or banks to be used as an alternative to a non-monetary gift.
- **ITINERANT BUSINESS:** Any business conducted intermittently within the Borough of Berlin or at varying locations.
- **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.
- **PRECIOUS METALS:** 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.
- **PUBLIC:** Individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.
- **PURCHASE:** The exchange of money and the exchange, deposit, pledge, sale, conveyance or trade of any tangible or intangible article.

- **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.
- **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, 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.
- **TRANSIENT BUYER:** A Dealer who has not been in any 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 Borough of Berlin 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.

## § \_\_\_\_\_ **REGISTRATION AND ISSUANCE OF LICENSE**

Each Dealer conducting business within the jurisdiction of the Borough of Berlin shall first register with the Chief of Police, who shall fingerprint the applicant and institute such an investigation of the applicant's moral character and business responsibility as he deems necessary 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 completion of the

investigation, the Chief of Police shall either issue or deny the license based upon the results of his investigation. Upon issuance of the license, the applicant shall be given a copy of this Ordinance, Chapter 238

A Dealer of precious metals, gems or gemstones or second hand goods shall, prior to buying, attempting to buy or offering to buy, register with the Chief of Police, providing the following information on an application prescribed by the Police Department:

- i) Name and address of Dealer;
- ii) Address from which Dealer shall conduct business; and
- iii) Copy of valid permit from the Borough of Berlin.

§ \_\_\_\_\_ **LICENSE FEES; NON-TRANSFERABILITY.**

Upon issuance of a license, the fee shall be based as provided in Chapter 238 Fees. A license issued under the provisions of this Chapter shall not be transferable and shall terminate on December 31<sup>st</sup> of the year in which said license is issued.

§ \_\_\_\_\_ **REVOCAION OF LICENSE.**

Licenses issued under the provisions of this Chapter may be revoked by the Chief of Police after a hearing upon notice to the applicant for any of the following causes:

- Fraud, misrepresentation, or false statement contained in the application for license;
- Fraud, misrepresentation, or false statement made in the course of carrying on the business of purchasing secondhand precious metals, gems, and jewelry;
- Any violation of this Chapter;
- Conviction of any crime or disorderly persons offense involving moral turpitude; and

- 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.

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) days prior to the date set for the hearing.

§ \_\_\_\_\_ **DEALERS' RESPONSIBILITIES, REQUIREMENTS AND RECORD KEEPING**

Every Dealer within the Borough of Berlin shall, upon the purchase of any precious metals, or second hand goods from the public, be required to do as follows:

- 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. All costs associated with the designated electronic database software system will be incurred by the dealer. Documentation showing all fees associated with the designated electronic database software must be produced prior to the approval of the Mercantile License. These records shall be subject to the inspection of any authorized police officer of the Borough of Berlin.
- 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 forty-eight (48) hours from the date of purchase. The information entered will contain the information in Section V Subsection A 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.
- The precious metals are to be made available for inspection by the Chief of Police of the Borough of Berlin for a period of five (5) 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 five (5) day period has expired. During this 5 day period, the precious metals shall be placed in public view at the purchaser's place of business. If the property is such that it would create a hardship on the Dealer by holding the precious metals for such period, the Dealer may present the property to the

Chief of Police in order that it may be photographed and, if deemed necessary by the Chief of Police, an investigation be implemented. The Chief of Police has the authority to grant the Dealer a waiver of the requirement under this section.

- In the event 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. 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 ordinance and subsequently being subject to the penalties for doing so.
- 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 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.
- 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 member of the Berlin Borough Police Department 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 or official to be missing or to have been stolen, or where the officer or official has probable cause to believe the article is missing or stolen.

§ \_\_\_\_\_ **NON-APPLICABILITY.**

This Chapter 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 six months from the date of such purchase, which records shall be opened to investigation by the Berlin Borough Police Department.

§ \_\_\_\_\_ **PURCHASES FROM MINORS.**

No Dealer within the Borough of Berlin shall purchase any precious metals from any person under the age of 18 years.

§ \_\_\_\_\_ **VIOLATIONS AND PENALTIES.**

Violation of any provision of this Chapter shall, upon conviction thereof, be punished by a minimum fine of \$100 or a maximum of \$2,000 or by imprisonment for a term not exceeding 90 days or by a period of community service not exceeding 90 days. 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) day suspension. Any person who is convicted of violating the provisions of this Chapter within one 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 Chapter.

**Section 2:** All other Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 3:** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

**Section 4:** This Ordinance shall take effect immediately upon final passage and publication as required by law.

**BOROUGH OF BERLIN**

  
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By: John J. Armano, Mayor

ATTEST:

  
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Charleen Santora, Borough Clerk