

1st Tr. 4-7-14
2nd 4-21-14

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE #2014-05

TITLE: ORDINANCE REVISING AND RESTATING CHAPTER 529 SECONDHAND MERCHANTS AND DEALERS OF PRECIOUS METALS OF THE CODE OF THE TOWNSHIP OF LOWER

WHEREAS, the Township Council of the Township of Lower desires to amend and restate Chapter 529 of the Code of the Township of Lower concerning secondhand merchants and dealers of precious metals; and

WHEREAS, the Lower Township Police Department has requested, as a result of numerous police investigations of lost or stolen property in the Township of Lower, that Chapter 529 be expanded to regulate the purchase, sale or exchange of all secondhand goods in addition to precious metals to assist the Police Department in deterring and detecting the fencing of stolen or lost property within the Township; and

WHEREAS, the Township Council finds that regulating the standards and manner in which the business of a dealer in secondhand goods and merchandise, including dealers of precious metals, shall be conducted ensures and furthers the protection of the public health, safety and welfare of the residents and visitors of Lower Township.

NOW, THEREFORE, BE IT ORDAINED that the Township Council of the Township of Lower, County of Cape May, State of New Jersey hereby determines and declares as follows:

Section 1. Chapter 529, titled Secondhand Merchants and Dealers of Precious Metals, is hereby stricken and replaced with the following:

Chapter 529. SECONDHAND MERCHANTS AND DEALERS OF PRECIOUS METALS

§ 529-1 Purpose.

The purpose of this chapter is to regulate the standards and manner in which the business of a dealer in secondhand goods and merchandise, including dealers of precious metals, shall be conducted to ensure the protection of the public health, safety and welfare of the residents of Lower Township and to deter and detect the fencing of stolen or lost property within the Township.

§ 529-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CHARITABLE ORGANIZATION

Any person, partnership, corporation or entity operating on a nonprofit basis, which has donated to it secondhand goods for the purpose of resale.

CHIEF OF POLICE

The chief law enforcement officer of the Lower Township Police Department or his or her designee.

DEALER

Any person or entity that purchases, sells, trades, exchanges, handles or deals in any secondhand goods.

LICENSEE

Any person or entity licensed by the Township in accordance with the provisions of this chapter as a dealer of secondhand goods.

PRECIOUS METAL

Any article whatsoever composed or manufactured in whole or in part of gold, silver or other precious metals, including but not limited to watches, jewelry, cutlery, wrought gold or other wrought precious metals.

SECONDHAND GOODS

Any used or previously owned goods, merchandise or used article whatsoever, including precious metal.

§ 529-4. License; term; fee.

- A. It shall be unlawful for any person, partnership, corporation, or entity to engage in the business of dealing in secondhand goods as defined in this chapter, without first obtaining a license therefore, as hereinafter provided. A separate license shall be required for each location, place or premises used for the conduct of the business in secondhand goods.
- B. The number of licenses issued under this chapter shall be limited to a maximum of ten (10), which number is deemed sufficient to meet the public need and prevent the creation of a nuisance to the public. No licensee shall retain custody of any license created hereunder unless licensee owns and operates a business as a dealer in secondhand goods as described herein.
- C. The license shall be valid from January 1 to December 31. Each application as provided for herein, shall be accompanied by a non-refundable license fee to be paid to the Township in the amount of \$500.

§ 529-2. Exceptions.

The provisions of this chapter shall not apply to the following activities:

- A. Auto body repair shops.
- B. Motor vehicle dealers.
- C. Bookstores.
- D. Charitable and nonprofit organizations to which secondhand goods are donated.
- E. Clothing.
- F. Garage sales or Flea Markets duly licensed in accordance with Chapter 359.

G. Junkyards duly licensed in accordance with Chapter 392.

§ 529-5. Application; requirements.

- A. Any person, corporation, partnership or entity desiring a license to conduct the business of dealing in secondhand goods, as defined in this chapter, shall make a written application to the Chief of Police.
- B. All applicants are required to complete an application furnished by the Township Clerk, providing any and all information required by the Chief of Police as well as any supplemental information requested by the Chief of Police thereafter.
- C. Each application shall be referred to the Chief of Police, who shall institute an investigation of the applicant's business responsibility and criminal history of the person applying for the license and of each person having an ownership interest in the case of an entity, and only the criminal history in the case of a salesperson, as is considered necessary and appropriate for the protection of the public health, safety and welfare.
- D. The findings of the Chief of Police or his designee shall be communicated in writing, together with any recommendations which he or she may have to the Township Clerk within a reasonable time after the application has been filed. If, based upon the information contained in the application and the report, the applicant's business responsibility is not unsatisfactory, and the applicant's criminal history is not unsatisfactory, and in the case of a salesperson there is no adverse criminal history, the Township Clerk may approve or disapprove the application. The Township Clerk shall thereafter transmit the application together with the any findings determinations or reports, to the Township Council, which shall consider the matter at a regular meeting, at which the Township Council may approve or disapprove the application. The determination of Township Council shall be final. In the event of approval, the Township Clerk shall then issue the license, provided that the required license fees and bond fees have been paid, and further provided that there are authorized, but unissued, licenses available.

§ 529-5. Regulations; place of business; soliciting on streets; canvassing.

- A. Licensee shall retain, without concealment, in the original condition received by the licensee, for an inspection period of not less than ten (10) days after receipt and recording of the secondhand good as required herein, and shall not alter, destroy, melt down, remodel, dispose of, sell, ship or deliver to any other person, or otherwise dispose of the secondhand good until such 10 day period has lapsed.
- B. No licensee shall accept secondhand goods that have been melted or altered or where there is reason to believe such items are lost or stolen property, in which case, licensee shall immediately report the attempted transaction to the Lower Township Police Department.
- C. A licensee shall not accept any secondhand goods from any person under the age of 18 years, unless such minor is accompanied by a parent or legal guardian which parent or legal guardian shall be subject to the provisions of this chapter.

- D. No licensee shall conduct the business of a pawnbroker without obtaining the state license required for that commercial activity in addition to the municipal license required for a dealer of secondhand goods.
- E. Licensee shall not conduct any transactions or business or make use of any location other than the location designated in licensee's application, or bank vault, leased to licensee for the storage, handling or display of any secondhand good.
- F. No licensee, or anyone on licensee's behalf, shall be permitted to solicit business upon any street, public highway, or conduct a house-to-house canvass for the purchase or sale of secondhand goods within the Township.
- G. Employees of licensee who engage in transactions on behalf of licensee in connection with secondhand goods shall be at least 18 years of age and no licensee shall permit any person who has been convicted of any crime or disorderly persons offense involving theft, forgery, fraud or related offence, to engage in transactions involving secondhand goods prior to notification to and approval from the Chief of Police in accordance with the provisions of this chapter. Licensee shall be liable for any of the acts or omissions of the licensee's agents, clerks, employees and salespersons that violate any provision of this chapter.
- H. Licensee shall display the license issued hereunder at all times during the period of the license in a conspicuous place in the licensed premises.
- I. Licensee shall have a continuing obligation to inform the Chief of Police of any condition or event that would be in violation of any of the provisions of this chapter within 24 hours of becoming aware of such condition or event.

§ 529-6. Record of purchases sales and exchanges; daily reports; maintenance of records; inspection.

- A. Every licensee shall, at the time of a transaction, make a record of every secondhand good received, purchased, sold or exchanged, which contains at a minimum, or as may further be required by the Chief of Police, the following information:
 - (1) name, age, sex, residence and digital photograph of the individual with whom the transaction is made and a general description of the person;
 - (2) a digital photograph of the secondhand good with a general description;
 - (3) the manufacturer's name or other marks of identification appearing on the secondhand good;
 - (4) the price or consideration paid or received for the secondhand good;
 - (5) the date and time of the transaction; and.
 - (6) any other information required by the electronic recording and reporting system in use by the Police Department as determined by the Chief of Police.

- B. The licensee shall utilize the electronic recording and reporting system as designated by the Chief of Police in his or her discretion, and the costs associated with use of such system will be the responsibility of the licensee and shall be included in the application fee. All electronic data required to be recorded herein, shall be forwarded to, or accessible by the Police Department by the end of the business day, including Saturdays and Sundays.
- C. In addition to the electronic data to be recorded and transmitted herein, the Chief of Police may also require licensee to keep a tightly bound book, not loose-leaf, with pages numbered in sequence in which there shall be made at the time of the transaction a record, in English, containing the same information and photographs required in section 529-6(A)(1) through (5) above. Said book shall be maintained for a minimum of one year from the date of the latest transaction recorded in the book.
- D. All electronic records and documentation required hereunder shall be maintained by the licensee for a period of one (1) year from the date of creation.
- E. All electronic records and documentation required hereunder, and all secondhand goods in possession or control of licensee shall be subject to inspection by the Chief of Police or such persons as may be designated by the Chief of Police or at the request of a police officer.

§ 529-12. Bond.

Every licensee, at the time of receiving such license, shall execute a bond to the Township of Lower in the penal sum of \$10,000 with good and sufficient surety or sureties to be approved by the Township Solicitor conditioned upon the licensee faithfully observing and complying with the provisions of this chapter at all times during the continuance of such license and conditioned further upon a promise to indemnify, keep and hold the Township of Lower harmless against all liabilities, judgments, costs, damages and expenses which may in any way come against the Township in consequence of the issuance of said license or by any act or thing done or neglected to be done by said licensee under and by virtue of the authority granted in said license or for the failure or neglect of such licensee to observe and comply with the ordinances of the Township relating to the business licensed.

§ 529-15. Suspension, revocation, or denial of license; hearing.

In addition to being subject to the penalties provided in section 529-16 of this chapter, any license shall be subject to suspension, revocation, or denial as set forth in section 432-17 for any reason set forth therein, including the following:

- A. Conviction of any crime or disorderly person offense involving theft, forgery, fraud or a related offence by licensee, any person holding or applying for a license, or by any person having an ownership interest in any corporation, partnership or any other entity that has applied for or holds a license.
- B. Violation of any of the provisions of this chapter or the rules and regulations promulgated hereto.

§ 529-16. Violations and penalties.

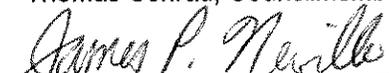
For the violation of any provision of this chapter, the maximum penalty, upon conviction of the violation, shall be a fine of not less than \$100 nor more than \$1,000 or imprisonment in the county jail for a period not exceeding 90 days, or both.

Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provision of this Ordinance are hereby declared to be severable.

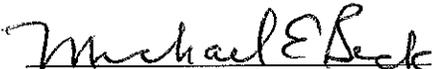
Section 4. This Ordinance shall become effective immediately upon final passage and publication, according to law.


Thomas Conrad, Councilmember

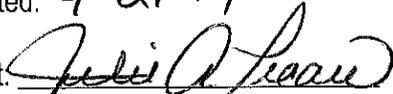

James Neville, Councilmember


Erik Simonsen, Councilmember


Norris Clark, Deputy Mayor


Michael E Beck, Mayor

Adopted: 4-21-14

Attest: 
Julie A Picard, Township Clerk