

**CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE NO. 2023-68

**ORDINANCE AMENDING CHAPTER 234 OF THE UNION CITY MUNICIPAL CODE
TO AUTHORIZE THE UNION CITY POLICE DEPARTMENT TO ADMINISTER AND
ENFORCE THE LICENSING OF BUSINESSES AND OCCUPATIONS WITHIN THE
CITY OF UNION CITY**

WHEREAS, pursuant to N.J.S.A. §40:52-1, the municipal governing body has the power to make, amend, repeal, and enforce ordinances to license and regulate various businesses and/or occupations conducted within its jurisdiction; and

WHEREAS, the City of Union City (the “City”) is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, the City seeks to amend Chapter 234 of the Union City Municipal Code of Ordinances entitled “Licensing of Businesses and Occupations” to transfer from the City Clerk’s Office to the Union City Police Department, the authority to oversee the application, fee collection, and issuance of all business and occupational licenses within the City of Union City as authorized by N.J.S.A. §40:52-1.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey, they being the Governing Body thereof, as follows:

SECTION ONE:

§234-4 entitled “Form of application” shall be amended as follows:

- A. Before any license is issued, the applicant for the license must file an application with the License Inspector upon a form supplied by the City which may be obtained from the Department of Health with respect to such licenses as are issued through the Department of Health and from the Inspector of Licenses with respect to such licenses as are issued through the License Inspector, which application shall be accompanied by the license fee prescribed for such business or occupation in this chapter and in the manner prescribed by this chapter.
- B. Upon the granting of a license by the Board of Commissioners, the applicant, upon notice from the Union City Police Department, shall obtain the license from the Department of Health or from the License Inspector, as the case may be, and no place, employment, vocation, occupation, premises or vehicle shall be used or operated for any of the business, trades, or purposes hereinafter specified, unless a license for that purpose is first had and obtained in the manner hereinbefore and hereinafter prescribed.

SECTION TWO:

§234-18(C) entitled “Dealers in precious metals and other secondhand goods” shall be amended as follows:

C. License requirement for dealers.

- (1) No person, partnership, limited liability company, corporation, or other entity shall engage in the business of buying, selling, or pawning of precious metals or other secondhand goods, as defined above, within the municipality, without having first obtained a license therefor from the Union City Police Department, which license shall bear a number issued by the Union City Police Department.
- (2) The application for a license to the Union City Police Department shall set forth the name, date of birth and address of the dealer, whether or not he/she is a citizen of the United States, and whether or not he/she has ever been convicted of any crime(s), disorderly persons offense(s), or municipal ordinance violation(s), and the dates, thereof.
- (3) Advertising in any print or electronic media or by sign that any of those articles or secondhand goods referred to in Subsection A above are being bought in any location within the municipality shall constitute engaging in business as a dealer of secondhand goods for the purpose of this chapter. No person, partnership, limited liability company, corporation or other entity shall place or cause to be placed any advertisement for purchase of such articles or goods without stating in the advertising the license number issued to a person or entity by the municipality. In any print advertisement, the license number shall be visibly or audibly stated. Failure to state or indicate the license number shall be in violation of this section and shall be subject to penalties established in Subsection I.
- (4) Licenses may not operate at any location other than the site specified in the license. Licenses operating at multiple locations must have each location separately licensed. Each location must be permanent. Itinerant business and transient buyers, as defined in Subsection B above, are not eligible for licensure and are prohibited from operating in the City.

SECTION THREE:

§234-18(D) entitled “Dealers in precious metals and other secondhand goods” shall be amended as follows:

D. Application Process for dealers; approval or denial.

- (1) Upon receipt of an application, the Chief of Police shall make an investigation of the prospective licensee within 30 days for the purpose of determining the suitability of the applicant for licensing. Such investigation shall include, but shall not be limited to the following:

- a. The experience of the applicant in the business of purchase and sale of those articles or goods referred to in Subsection A above, although nothing in this section shall be construed to warrant denial of a license solely on the basis of lack of experience.
 - b. The reputation of the applicant for fair dealing in the community, which shall be made among credible sources, which sources shall be disclosed to the applicant in the event of a denial of any license.
 - c. Any criminal record of the applicant including any past convictions for any crime(s), disorderly persons offense(s), or municipal ordinance violation(s) within this or any other jurisdiction. The Chief of Police may, as part of the application process, require a fingerprint criminal background check through the Federal Bureau of Investigation, Criminal Justice Information Services Division, which may require an additional fee from the applicant.
 - d. The type of operation contemplated to be conducted by the applicant, particularly whether the business is to be operated from a fixed location, whether it is to be conducted from a location primarily devoted to the purchase and sale of precious metals or other secondhand goods and other factors bearing on whether the licensed business will be of a fixed and permanent nature. This section shall not be construed to require denial of any license solely on the grounds that the business is not from a fixed location or that the applicant is a transient buyer or itinerant business, however, applicants who fall under the category of a transient buyer or itinerant business must state with specificity on the license application the business address where transaction records required by Subsection E(4) of this section will be stored as well as the location where purchased goods will be retained during the mandatory inspection period required under Subsection F(1).
- (2) The Chief of Police shall complete any investigation pursuant to this section within 30 days of the submission of the completed application to the Union City Police Department. If a criminal record check has been requested within the thirty-day period and has not been received from the Chief of Police within that period, the Chief may, if all other factors are satisfactory, recommend a conditional issuance of the license subject to the finding regarding the criminal record.
 - (3) The Chief of Police, upon completion of the investigation, shall grant or deny the license according to the results of the investigation. In the case of denial, the Chief of Police shall notify the applicant within 10 days and shall forward to the applicant a statement of the reason or reasons for such denial.
 - (4) Grounds for recommending denial of license may include reliable information indicating that the applicant has in the past engaged in fraudulent or deceptive business practices in a business identical to or similar to a dealer in secondhand goods. A license may be

denied if the investigation reveals a conviction of the applicant or any of its principal officers or employees of any crime(s), disorderly persons offense(s) in which deceit or misrepresentation is an element; or any conviction of any crime(s) disorderly persons offense(s) involving theft or the receiving of stolen goods, regardless of whether the applicant was a principal, accessory before the fact, after the fact, or a co-conspirator; or any prior municipal ordinance violation(s) by the applicant or any of its principal officers or employees in this or any other jurisdiction. A license may be denied if the applicant fails to demonstrate an ability to satisfactorily comply with the electronic reporting requirements specified in Subsection E, the retention and inspection requirements of Subsection F, or any other portion of this chapter. Upon the recommendation of the Chief of Police, the Union City Police Department will issue or deny the license accordingly, contingent upon the receipt of a bond as required by Subsection G of this section.

- (5) Whenever any application for permit is denied, the applicant shall be entitled to a hearing before a three-person panel appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such denial. Any applicant exercising the right to appeal must file a written notice of appeal within 10 days of receiving written notice of denial of a license to act as a dealer of secondhand goods.
- (6) No license shall be assignable by the dealer.

SECTION FOUR:

§234-18(F) entitled "Dealers in precious metals and other secondhand goods" shall be further amended as follows:

F. Retention; revocation; other restrictions.

- (1) All precious metals and other secondhand goods purchased, received for pawn, or received for consignment as described above, are to be made available for inspection by the Chief of Police or designee thereof at the designated business address for a period of at least 10 calendar days from the date the transaction information is actually reported to the Chief of Police in the approved manner described above in Subsection D. Jewelry also must be maintained for at least 10 business days, the statutory period provided in N.J.S.A. 2C:21-36(d). All precious metal or other secondhand goods subject to inspection must remain in the same condition as when purchased or received for pawn and shall not be sold, disposed of, changed, modified, or melted by the dealer until the ten-day retention period has expired. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the location where the purchased item(s) are being held.
- (2) Upon probable cause that goods held by a dealer are stolen, and provided that the seller signed the mandatory statement required by Subsection E(2) upon the sale of those goods, a law enforcement officer with jurisdiction should charge the seller with theft by

deception under N.J.S.A. 2C:20-4 on behalf of the dealer, who shall be considered the "victim" of the offense for the purposes of N.J.S.A. 2C:43-3. The officer shall seize the goods, provide the dealer with a receipt and issue a criminal complaint against the seller for theft by deception and any other criminal charges for which the officer has probable cause that the seller has committed. If convicted of theft by deception and if so found by an order of a court of valid jurisdiction, the seller will be responsible for providing restitution to the dealer under N.J.S.A. 2C:44-2 for the amount paid by the dealer to the seller for the stolen goods.

- (3) If market conditions would create a hardship on the dealer by holding precious metals or other secondhand goods 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 may be implemented. The Chief of Police shall have the authority to grant the dealer a waiver of the requirement under this section.
- (4) In addition to all other reporting requirements, every dealer shall maintain for at least five years a written record of all purchases of precious metals and other secondhand good in the form prescribed in Subsection E(3)(a).
- (5) No dealer shall purchase any item covered by this section from any person under the age of 18 or in the absence of providing prior notification of such purchase to the Chief of Police or business designee identifying the individual from whom such purchase is to be made and the item to be purchased.
- (6) Suspension. The Chief of Police or a designee thereof is hereby empowered to temporarily suspend for cause any dealer's license and rights to operate thereunder. The penalty shall be in addition to any fines and penalties the dealer may incur pursuant to Subsection I.
 - a. Grounds for suspension. The following shall constitute grounds for suspension: violation of any provisions of this section, including failure to comply with any training or fees associated with the electronic database software system in use by the municipality; violation of any other statute, regulation, or local ordinance; or any other illegal, improper, or fraudulent activity.
 - a. Procedure for suspension. Upon determination that appropriate grounds exist and that a suspension is warranted, the Chief of Police or a designee thereof shall issue a written notice of suspension of license to the offending dealer, which shall set forth the grounds for the suspension and notify the dealer of his or her right to appeal pursuant to Subsection F(8). A temporary suspension shall issue immediately, pending the outcome of any appeal taken. Suspended dealers must immediately cease engaging in the business of purchasing for resale, receiving for pawn, and/or selling of precious metals and/or other secondhand goods in the municipality until reinstatement.

- b. Reinstatement. Suspended dealers may be reinstated only when the grounds leading to the suspension have, in the determination of the Chief of Police or the Chief's designee, been cured, corrected, or appropriately rectified; or if reinstatement is deemed appropriate by the three-person panel appointed by the Chief of Police, upon the timely filing of an appeal as provided in Subsection F(8).
- (7) Revocation. A license issued under this section may be revoked by the Union City Police Department upon written recommendation from the Chief of Police or the Chief's designee that the dealer is no longer qualified, capable or competent to comply with the requirements of this chapter. This penalty shall be in addition to any fines and penalties the dealer may incur under Subsection I.
- a. Grounds for revocation. The following shall constitute grounds for revocation: a third violation under this chapter; a second violation under this chapter less than one year after an earlier violation under this chapter; conviction for a criminal offense within this or any jurisdiction; or multiple violations of any other regulations or local ordinances within this or any jurisdiction.
 - b. Procedure for revocation. Upon a determination that appropriate grounds exist and that a revocation is warranted, the Chief of Police or the Chief's designee shall issue a written report indicating the basis for the revocation of the license. A temporary suspension will immediately and automatically issue, if one is not already in effect, pending the outcome of the charge. A three-person panel appointed by the Chief of Police, shall review the stated ground for revocation, and the panel shall issue an appropriate disposition of suspension, revocation, or reinstatement. If the panel determines that revocation is the appropriate disposition, it shall set forth the grounds for the same in writing in the form of a notice of revocation, which shall be provided to the dealer. The notice shall advise the dealer to the right appeal. If the panel determines that suspension is the appropriate disposition, it shall provide the dealer with a notice of suspension that shall advise the dealer of the right to appeal. Following revocation, the dealer must relinquish his or her license and must immediately and indefinitely cease operating as a dealer of precious metals or other secondhand goods within the municipality.
- (8) Appeal. Any applicant wishing to appeal an issuance of a suspension or revocation shall be entitled to a hearing before a three-person panel, appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such suspension or revocation. Any applicant exercising the right to appeal must file a written notice of appeal within 10 days of receiving written notice of revocation or suspension of license.
- (9) A dealer shall have the right to change the location of the licensed business provided that he or she notifies the Union City Police Department, in writing, of the street address of said new location.

SECTION FIVE:

§234-18(G) entitled "Dealers in precious metals and other secondhand goods" shall be further amended as follows:

- G. Bond requirement. Each dealer covered under this section shall deliver a bond to the Union City Police Department executed by the applicant as principal and executed by a surety company authorized to do business under the laws of the State of New Jersey as surety. The bond, to be approved by the City Attorney, as defined in N.J.S.A. 40A:9-139, shall in the penal sum of \$10,000 conditioned for the due and proper observance of and compliance with the provisions and requirements of all ordinances of the municipality in force or which may be adopted respecting the conduct of this business and conditioned also that the bond shall be and remain for the benefit of any person or persons who shall have received judgment against the dealer licensed under this section, which damage shall be established by a judgment or a court of proper jurisdiction. This bond shall contain the following language: "The obligation of this bond shall, in addition to the City of Union City, be and remain for the benefit of any person who shall obtain a judgment against the obligor as a result of damage sustained in operation pursuant to any license granted under this chapter" (1972 Code Sect. 7-20.6). Said bond shall be kept for a minimum of one year from the date of issuance of license and must be renewed annually along with the license.

SECTION SIX:

§234-18(H) entitled "Dealers in precious metals and other secondhand goods" shall be further amended as follows:

- H. Fees; period of license validity. A nonrefundable fee for initial application and license for a pawnbroker or a dealer in precious metals or other secondhand goods, as covered under this section, is \$300. The annual renewal fee for a license is \$250. These fees are separate from and in addition to any fees the dealer must pay in relation to the mandatory electronic database system designated by the Chief of Police, as provided by Subsection E(4). Payments are to be made in the manner directed by the Union City Police Department. A license is valid for a one-year period from the date of its issuance.

SECTION SEVEN:

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION EIGHT:

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION NINE:

In order to avoid accidental repeal of existing provisions, the City Clerk and Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION TEN:

This Ordinance shall take effect upon passage and publication as required by law.

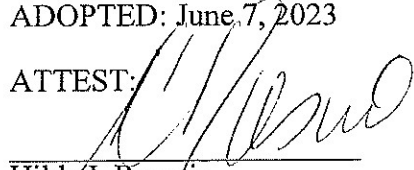
Commissioners	Yea	Nay	Abstain/Present	Absent
Lucio P. Fernandez	X			
Wendy A. Grullon	X			
Celin J. Valdivia	X			
Maryury A. Martinetti				X
Mayor Brian P. Stack	X			

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on May 16, 2023 and was further considered and adopted after a Public Hearing held on June 7, 2023 at the Housing Authority Hillside Pavilion, 3911 Kennedy Boulevard, Union City, New Jersey 07087

INTRODUCED: May 16, 2023

ADOPTED: June 7, 2023

ATTEST:


Hilda I. Rosario
Acting City Clerk


DATE