

Explanation: This Ordinance amends Chapter IV entitled "Licensing – General" of *The Revised General Ordinances of the Township of Warren* by the addition of Section 4-17 entitled "Dealers of Precious Metals, Gems and Secondhand Goods".

**TOWNSHIP OF WARREN
ORDINANCE NO. 15-12**

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER IV ENTITLED "LICENSING – GENERAL" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WARREN AS HERETOFORE SUPPLEMENTED AND AMENDED BY THE ADDITION OF SECTION 4-17 ENTITLED "DEALERS OF PRECIOUS METALS, GEMS AND SECONDHAND GOODS".

BE IT ORDAINED by the Township Committee of the Township of Warren, in the County of Somerset, State of New Jersey, as follows:

SECTION 1. Chapter IV entitled "Licensing – General" of *The Revised General Ordinances of the Township of Warren* is hereby supplemented and amended by the addition of new Section 4-17 entitled "Dealers of Precious Metals, Gems and Secondhand Goods" to read as follows:

4-17 DEALERS OF PRECIOUS METALS, GEMS AND SECONDHAND GOODS.

4-17.1 Purpose and Intent.

The purpose and intent of this section is to assist law enforcement officials and victims of crime in recovering stolen precious 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, silver, gems, gemstones, 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 Township of Warren without having first obtained a license from the Township of Warren.

4-17.2 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 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, but shall not be limited to, the following:

- A current valid New Jersey driver's license or Identification Card;
- A current valid photo driver's license issued by another state;
- A valid United States Passport;
- Other verifiable United States 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.

Chief of Police shall mean the Chief of Police of the Township of Warren 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 Township of Warren.

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 Township of Warren or at varying locations.

Person shall mean any individual natural person, partnership, joint venture, business, society, associate, club, trust, trustee, 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., gems, gemstones, coins and all forms of jewelry herein contained.

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 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 shall mean a dealer who has not been in any retail business continuously for at least six (6) months at any address in the municipality where the dealer is required to register or who intends to close out or to discontinue all retail business in the Township of Warren 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.

4-17.3 Application and Issuance of License.

Initial License Application Process.

Every dealer intending on conducting business within the jurisdiction of the Township of Warren shall first make application to the Chief of Police and shall set forth the name and address of the 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. The Chief of Police is authorized to grant a waiver from the licensing and reporting provisions of this Ordinance to any dealer who he believes should be exempt from those provisions. This exemption will be reviewed annually by the Chief of Police, and may be revoked by him at any time. Any exemption granted by the Chief of Police shall be in writing.

A dealer of precious metals, gems or gemstones or secondhand goods, prior to buying, attempting to buy or offering to buy, shall be required to be fingerprinted and shall consent to an investigation of the dealer's moral character and business responsibility as deemed necessary by the Warren Township 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 dealer(s) who shall be fingerprinted and investigated in accordance with this section.

Upon initial application to the Police Chief, each dealer shall provide the following information:

Name and address of dealer;

Address from which dealer shall conduct business;

Copy of valid zoning and/or construction permits from the Township of Warren;

Proof that dealer has obtained computer equipment and software required in section 4-17.6 of this section, for the purposes of reporting all transaction data in electronic format to the Warren Township Police Department.

The type of operation contemplated to be conducted by the dealer, 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, gems or gemstones or secondhand goods, and other factors bearing on whether the licensed business will be of a fixed and permanent nature.

Contingency. Upon completion of the investigation, the Chief of Police shall either approve or deny the license based upon the results of the Warren Township Police Department investigation. No license shall be issued without the approval of the Chief of Police.

c. Renewal.

All renewal applications are to be received in the Police Chief'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, any new officer(s) or partner(s) who has joined the dealer since the preceding year shall be deemed to be the dealer(s) who shall be fingerprinted and investigated in accordance with subsection a hereof.

If a dealer fails to file a renewal application by January 31st of each year, the dealer will be assessed a fifty (\$50.00) penalty. If a dealer fails to file a renewal application by January 31st and, the Warren Township Police Department may serve notice on said dealer requiring him or her to file such renewal application within ten (10) business days. If the dealer fails to file such renewal application after receiving such notice from the Warren Township Police Department, the dealer license may be revoked following the process set forth in section 4-17.6 of this ordinance.

4-17.4 License Fees; Nontransferability.

Each application for a license shall be accompanied by an annual fee of three hundred (\$300.00) dollars payable to the Township of Warren by January 10th annually.

A license issued under the provisions of this section shall not be transferable and shall terminate on December 31st of the year in which said license is issued.

No license fee shall be pro-rated.

Revocation of License.

Licenses issued under the provisions of this section may be revoked by the Chief of Police after a hearing upon notice to the dealer 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, jewelry or goods;
- Any violation of this ordinance;
- Conviction of any crime or disorderly persons involving moral turpitude; or
- 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.

4-17.6 Dealers' Responsibilities, Requirements and Record Keeping.

a. Every dealer within the Township of Warren shall, upon the purchase of any precious metals, gems, gemstones or secondhand goods from the public, be required to do the following:

Require of each person selling precious metals, gems or gemstones or secondhand goods, acceptable identification as defined in Section 4-17.2 above;

Require each seller to execute a "Declaration of Ownership" which shall contain the following certification:

My signature confirms that I am the sole legal owner of and am legally authorized to sell the goods being sold. By signing below, I certify that I did not obtain and do not possess the identified goods through unlawful means. I am the full age of eighteen years and the identification presented is valid and correct.

Record on a sequentially numbered receipt the following information:

The name, address and telephone number of the purchaser, including the clerk or employee of the licensee making the purchase;

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 carats 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 the use of an electronic database software system as designated by the Chief of Police. These records shall be subject to the inspection of any authorized police officer of the Township of Warren.

b. Through the use of 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 shall contain the information in subsection 4-17.6a. above, plus the following:

A physical description of the seller;

The receipt number;

A full description of the item or items purchased, including but not limited to, marks, numbers, dates, sizes, shapes, initials, monograms and serial numbers;

The price paid for the item;

A color photograph or color image of the seller's presented identification;

A color photograph or color image of all items sold. When photographing or imaging items, all items must be positioned in a manner that makes them readily and easily identifiable.

Items should not be grouped together when photographing or imaging; each item will have its own color photograph or color image.

The precious metals, gems, gemstones or secondhand goods are to be made available for inspection by the Chief of Police of the Township of Warren for a period of seven (7) days from the date the information required above is received by the Chief of Police on the approved form. The precious gems, gemstones or secondhand goods 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 seven day period has expired. During this seven day period, the precious metals, gems, gemstones or secondhand goods 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 to hold the precious metal gems, gemstones or secondhand goods, for such a 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 subsection.

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. 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 repair or replacement of the computer equipment, or the return to service of the database. Failure by the dealer to properly maintain his or her 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 incurring penalties as set forth herein.

Dealer payments to a seller 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 first transaction (i.e. if transaction #1 occurs on Monday, the seven (7) day period shall end 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 prescribed number of weekly and monthly periods will be paid 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 Warren Township Police Department to examine any database, book, ledger, or any other record on the premises relating to the purchase of precious metals, gems, gemstones, or secondhand goods from the public, as well as the items 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 that the article is missing or stolen.

Nonapplicability

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 six (6) months from the date of such purchase, which records shall be opened to investigation by the Warren Township Police Department.

Purchases from Minors.

No dealer within the Township of Warren shall purchase any precious metals, gems, gemstones or secondhand goods from any person under the age of eighteen (18) years of age.

Suspension and Revocation.

Suspension. The Chief of Police is hereby empowered to temporarily suspend for cause any dealer's license and right to operate thereunder. This penalty shall be in addition to any fines and penalties the dealer may incur pursuant to the section 4-17.9 of this chapter.

Grounds for suspension. The following shall constitute grounds for suspension:

- Violation of any of the provisions of this chapter;
- Violation of any other statute, regulation or local ordinance;
- Any other illegal, improper or fraudulent activity.

Procedure for Suspension. Upon determination that appropriate grounds exist and that a suspension is warranted, the Chief of Police shall issue written notice of suspension of license to the offending dealer which shall set forth the grounds for suspension, and notify the dealer of his right to appeal. 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 and/or selling of precious metals, gems, gemstones or secondhand goods in the municipality until reinstatement.

Reinstatement. Suspended dealers may be reinstated only when the grounds leading to the suspension have, in the determination of the Chief of Police or other official designated by the Township to review the grounds for suspension, been cured, corrected or appropriately rectified.

Revocation. A license issued under this chapter may be revoked by the Chief of Police upon written recommendation 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 section 4-17.9.

1. **Grounds for Revocation:** The following shall constitute grounds for revocation:
 - a). A third violation under this chapter;
 - b) A second violation under this chapter less than one (1) year after an earlier violation under this chapter;
 - c) Conviction of a criminal offense within this or any jurisdiction;
 - d) Multiple violations of this or any other regulations or local ordinances within this or any jurisdiction.

2. **Procedure for revocation.** Upon a determination that appropriate grounds exist and that a revocation is warranted, the Chief of Police shall so state in writing. A temporary suspension shall immediately and automatically issue pending the outcome of the charge. The Township Administrator or other official designated by the Township shall review the stated grounds for revocation and shall issue the appropriate disposition of either suspension, revocation or reinstatement. If it is determined that revocation is the appropriate disposition, the grounds therefore shall be set forth in writing in a notice of revocation which shall be provided to the dealer. The notice shall advise the dealer of the right to appeal. If it is determined that suspension is the appropriate disposition, the dealer shall be so notified in writing and shall be advised 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, gems, gemstones or secondhand goods within the municipality.

3. **Appeal.** Any dealer wishing to appeal a suspension or revocation shall be entitled to a hearing before the Chief of Police, the Township Administrator or other official designated by the Township to hear such appeal. An appeal by a dealer must be made by written request to the Chief of Police within ten (10) days of the receipt of a written notice of revocation or suspension of license.

Violations and Penalties.

Violation of any provision of this section shall, upon conviction thereof, be punished by a minimum fine of one hundred (\$100.00) dollars or a maximum of two thousand (\$2,000.00) dollars or by imprisonment for a term not exceeding ninety (90) days or by a period of

community service not exceeding ninety (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) ay 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 section.

WARREN TOWNSHIP COMMITTEE

By: 
Michael C. Marion Mayor

ATTEST:


Patricia A. DiRocco, RMC, Township Clerk

Introduced June 18, 2015
Adopted July 16, 2015
Effective July 23, 2015