

**CHARTER TOWNSHIP OF SHELBY
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. 274

TO ADOPT AND PUBLISH AN ORDINANCE REGULATING AND LICENSING PRECIOUS METAL AND GEM DEALERS ADDING ARTICLE VIII OF CHAPTER 14 OF THE CODE OF ORDINANCES, PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF SHELBY ORDAINS:

Section 1. Preamble.

WHEREAS, in order to protect public health, safety and welfare and to advance the legitimate rational regulation of businesses, the Township is desirous of licensing and regulating precious metal and gem dealers in order to promote and protect public health and welfare, reduce and or eliminate the acceptance and resale of stolen or unauthorized property and reduce crime through such regulation.

Section 2. The Code of Ordinances of the Charter Township of Shelby is hereby amended by adding Article VIII Precious Metal and Gem Dealers of Chapter 14 to read as follows:

Sec.14-513. DEFINITIONS.

Definitions utilized under this ordinance shall be the same definitions as provided in the Precious Metal and Gem Dealer Act MCL 445.482 as amended.

Sec. 14-514. REGISTRATION AND TRANSACTION FEE.

A registration fee and renewal fee shall be assessed from each licensee in a manner and amount as set from time to time by resolution of the Board of Trustees.

Sec. 14-515. RECORDS OF TRANSACTIONS.

(1) A dealer shall maintain a permanent record of each transaction, on record of transaction forms provided for in Act 95 of 1981. Such record shall be legibly written or otherwise printed in ink in the English language. Each record of transaction form shall be filled out in quadruplicate by the dealer or agent or employee of the dealer. One copy of the form shall go to the Shelby Township Police Department pursuant to State Law; 1 copy shall go to the customer; and 1 copy shall be retained by the dealer pursuant to State Law.

(2) At the time a dealer receives or purchases a precious item, the dealer or the agent or employee of the dealer shall insure that the following information is recorded accurately on a record of transaction form:

- (a) The dealer certificate of registration number.
- (b) A general description of the precious item or precious items received or purchased, including the type of metal or precious gem. In the case of watches, the description shall contain the name of the maker and the number of both the works and the case. In the case of jewelry, all letters and marks inscribed on the jewelry shall be included in the description.
- (c) The date of the transaction.
- (d) The name of the person conducting the transaction.
- (e) The name, date of birth, driver's license number or State of Michigan personal identification card number, and street and house number of the customer, together with a legible imprint of the right thumb of the customer, or if that is not possible, of the left thumb or a finger of the customer. However, the thumbprint or fingerprint shall only be required on the record of transaction form retained by the dealer. The thumbprint or fingerprint shall be made available to a police agency during the course of a police investigation involving a precious item or items described on the record of transaction. After a period of 1 year from the date of the record of transaction, if a police investigation concerning a precious item or items described on the record of transaction has not occurred, the dealer and any police agency or sheriff's department holding a copy of the record of transaction shall destroy, and not keep a permanent record of, the record of transaction. A dealer who goes out of business or changes his or her business address to another local jurisdiction either within or out of this state shall transmit the records of all transactions made by the dealer within 1 year before his or her closing or moving, to the local police agency.
- (f) The price paid by the dealer for the precious item or precious items.
- (g) The form of payment to the customer; check, money order, bank draft, or cash. If the payment is by check, money order, or bank draft, the dealer shall indicate the number of the check, money order, or bank draft.
- (h) The customer's signature.

(3) The record of each transaction shall be numbered consecutively, commencing with the number 1 and the calendar year (example, 01-2012).

(4) The record of transaction forms of a dealer and each precious item received shall be open to an inspection by the county prosecuting attorney, the local police agency, the police agency or sheriff's department of the local

governmental unit in which the customer resides, and the Michigan state police, at all times during the ordinary business hours of the dealer. As a condition of doing business, a dealer is considered to have given consent to the inspection prescribed by this subsection. The record of transaction forms of a dealer shall not be open to inspection by the general public.

(5) The items shall be photographed and any serial number or other markings provided, as well as any other information as required pursuant to the electronic transaction reporting processes utilized by the Township. Additionally, the driver license, state identification, passport, or other photographic identification of a customer shall be photographed.

(6) The form of the record of transaction shall have an 8-1/2 by 11 inch size and shall be as follows:

RECORD OF TRANSACTION

Dealer Certificate # _____ # _____
(Transaction Number)

(1) Description of Property –

(2) _____, 20____
(Date)

(3) _____
(Name of Dealer/Employee)

(4) _____
(Name of Customer)

(Date of Birth)

(Driver's license No./ (Street Address)

(Mich. Personal ID Number)

(City & State)

(Zip)

(5) _____
(Price Paid)

(County of Residence)

(6) _____
(Check no., bank draft no., money order no., or cash)

(Name of police agency of city, village, or township in which customer resides)

Thumbprint of Customer



Signature of Customer

Sec.14-516. RETENTION OF TRANSACTION AND TRANSMITTAL TO POLICE DEPARTMENT.

(1) Except as otherwise provided by State Law, each record of a transaction shall be retained by the dealer for not less than 1 year after the transaction to which the record pertains.

(2) Within 48 hours after receiving or purchasing a precious item, the dealer shall send a copy of the record of transaction form to the Shelby Township Police Department and, if the record of transaction form indicates that the customer resides outside the jurisdiction of the Township, the dealer shall send a copy of the record of transaction form to the police agency of the city, village, or township in which the customer resides as set forth on the record of transaction, or, if that city, village, or township does not have a police agency, to the sheriff's department of the county in which the customer resides as set forth on the record of transaction.

Every licensee, owner and employee, shall keep a record of all persons and/or entities with whom business has transacted and all property coming into their possession. Reports must be electronically transmitted to the Police Chief or his designee. Within forty-eight (48) hours of receipt by purchase, or otherwise of a precious item, a report must be transmitted by means of electronic transmission through a modem, or similar device in a format that the data is capable of direct electronic entry into the Shelby Township's Police Department's computerized system, as approved by the Police Chief, or his designee for identifying property coming into the possession of a licensor. A transaction report by electronic transmission under this sub section shall not be reported on paper forms, unless the Police Chief, or his designee so requires. All dealers must have the equipment installed in their place of business within three (3) months from the

date of adoption of this Ordinance. Information must be reported electronically upon installation of equipment.

(3) The record of transaction forms received by a police agency or sheriff's department shall not be open to inspection by the general public. Each police agency or sheriff's department holding record of transaction forms shall be responsible for insuring the confidentiality of the record of transaction forms and insuring that the record of transaction forms are used only for the purpose for which they were received.

Sec. 14-517. CERTIFICATE OF REGISTRATION.

No person shall carry on the business of a precious metal or gem dealer in the Township without first having a "Certificate of Registration" issued from the Township Police Department authorizing such person or entity to carry on such business subject to the provisions of this article.

Sec. 14-518. APPLICATION; PREREQUISITES.

A dealer shall apply to the Township for a certificate of registration, and pay a fee of \$50.00 to cover the cost of processing and issuing the certificate of registration, by disclosing the following information:

- (a) The name, address, and thumbprint of the applicant(s).
- (b) The name and address under which the applicant does business.
- (c) The name, address, and thumbprint of all agents or employees of the dealer. Within 24 hours after hiring a new employee, the dealer shall forward to the local police agency the name, address, and thumbprint of the new employee.

Sec. 14-519. POLICE DEPARTMENT REVIEW.

The Shelby Township Police Department shall review the application and determine whether the application complies with the provisions of this Ordinance and the "The Precious Metal and Gem Dealer Act" (Act 95 Of 1981). The Department shall complete their examination and issue a determination within thirty (30) days upon receipt of the application described herein.

If denied an applicant may appeal in writing within ten days of denial to the Township and the Township Board shall hear such appeal within twenty-one (21) business days and render a decision within fourteen (14) business days. Grounds for denials shall be in accurate information in the application, any reason under the Precious Metal and Gem Dealers Act or any existing uncured violation of Township ordinances involving the business or premises.

Sec. 14-520. REVIEW BY BUILDING INSPECTOR.

The building inspector shall within fifteen (15) days of the submittal of an application review the premises in order to determine whether the precious metal and gem dealer activities are compliant with township ordinances. Such determination shall be issued to the Shelby Township Police Department.

Sec. 14-521. CERTIFICATE OF REGISTRATION, DURATION; RENEWAL; CHANGES.

Not less than 10 days before a dealer changes the name or address under which the dealer does business, the dealer shall notify the Shelby Township Police Department in writing of the change.

Sec. 14-522. DISPLAY OF CERTIFICATE OF REGISTRATION.

Upon receipt of the certificate of registration from the Shelby Township Police Department the dealer shall post it in a conspicuous place in the dealer's place of business.

Sec. 14-523. PRECIOUS ITEM RETENTION; ALTERATION OR DEFACING UNLAWFUL.

A precious item received by a dealer shall be retained by the dealer for nine (9) calendar days after it was received, without any form of alteration other than that required for an accurate appraisal of its value.

Sec. 14-524. PRECIOUS ITEMS: ACCEPTANCE PROHIBITED AND UNLAWFUL.

A dealer or an agent or employee of a dealer shall not:

- (a) Knowingly receive or purchase a precious item from any person who is less than 18 years of age or any person known by the dealer or agent or employee of the dealer to have been convicted of theft or receipt of stolen property within the preceding 5 years, whether the person is acting in his or her own behalf or as the agent of another.
- (b) Knowingly receive or purchase a precious item from a person unless that person presents a valid driver's license or a valid state of Michigan personal identification card.

Sec. 14-525. VIOLATIONS; PENALTY.

Any violation of any provision of this act shall be a misdemeanor punishable by imprisonment of not more than ninety-three (93) days and/or a fine of Five Hundred (\$500.00) Dollars, or both in addition to any other penalty provisions provided for

violation of a misdemeanor as set forth in the general penalty provisions of this code of ordinances.

Sec. 14-526. LICENSE REVOCATION.

Any dealer, agent, or employee of a dealer who is convicted of any misdemeanor pursuant to this act, or under section 535 of the Michigan Penal Code, 1931, Public Act 328, MCL 750.535, or of the Precious Metal and Gem Dealer Act MCL 445.481, shall not be permitted to operate as a dealer within this state for a period of one (1) year after conviction. A dealer, or an agent, or employee of a dealer who is convicted of a felony under MCL 445.481 et seq. Precious Metal and Gem Dealer Act, or under Section 535 of the Michigan Penal Code, 1931 Public Act 328, MCL 750.535, shall not be permitted to operate as a dealer within this state for a period of five (5) years after conviction.

Section 3. Repealer.

All ordinances or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Severability.

If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the Township that this ordinance shall be fully severable.

Section 5. Effective Date.

This ordinance shall become immediately effective upon adoption and publication.

CERTIFICATION

I, Stanley Grot, Clerk for the Charter Township of Shelby, County of Macomb, State of Michigan, certify that this is a true copy of an Ordinance adopted by the Board of Trustees of the Charter Township of Shelby at its regular meeting on the 15th day of December 2015.

Given under my hand and the Seal of
the Charter Township of Shelby this
27th day of December in the Year of
our Lord Two Thousand Fifteen.

STANLEY T. GROT
TOWNSHIP CLERK

INTRODUCTION:	December 4, 2015
FIRST PUBLICATION:	December 13, 2015
ADOPTION:	December 15, 2015
SECOND PUBLICATION:	December 27, 2015
EFFECTIVE:	December 27, 2015