

**THE TOWNSHIP OF EWING  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE NO. 13-06**

1st Reading 2-12-13

Date to Mayor 2-27-13

2nd Reading &  
Public Hearing 2-26-13

Date Returned \_\_\_\_\_

Date Adopted:  
2-26-13

Date Resubmitted to Council \_\_\_\_\_

Approved as to Form of Legality

Effective Date:  
3-18-13

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO REPEAL CHAPTER 211 AND ESTABLISH RULES, REGULATIONS AND PENALTIES FOR ANY PERSON OR ENTITY ENGAGING IN THE SALE OF USED GOODS AND EQUIPMENT IN THE TOWNSHIP OF EWING

First Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter	X				X	
Keyes-Maloney	X					
Schroth	X					
Wollert	X					X
Hyser	X					

Second Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter	X					X
Keyes-Maloney	X					
Schroth	X				X	
Wollert	X					
Hyser	X					

By \_\_\_\_\_ Date \_\_\_\_\_ Accepted \_\_\_\_\_ Rejected \_\_\_\_\_  
Mayor

Reconsidered  
By Council \_\_\_\_\_ Override Vote YEA \_\_\_\_\_ NAY \_\_\_\_\_

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
Municipal Clerk

TOWNSHIP OF EWING  
ORDINANCE NO. 13-06

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO REPEAL CHAPTER 211 AND ESTABLISH RULES, REGULATIONS AND PENALTIES FOR ANY PERSON OR ENTITY ENGAGING IN THE SALE OF USED GOODS AND EQUIPMENT IN THE TOWNSHIP OF EWING

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NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Ewing, as follows:

Section 1.

Chapter 211, Jewelry, Precious Metals and Gems is hereby repealed in its entirety and replaced with the provisions in Section 2.

~~Chapter 211. JEWELRY, PRECIOUS METALS AND GEMS~~

~~§ 211-1. License required.~~

~~No person shall engage in the business of the purchase or sale of precious metals, gems or jewelry, and all forms of previously owned jewelry, without first obtaining a license from the Municipal Clerk.~~

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~~§ 211-2. Application for license; background check; issuance or denial.~~

~~Upon receipt of an application which shall contain a consent to a criminal background check, the Clerk shall forward a copy to the Chief of Police, who shall institute such background check. Upon completion of the background check, the Police Chief shall recommend to the Clerk either issuance or denial of the license. If the license is denied, the Clerk shall advise the applicant of the reasons therefor. Otherwise, the license is to be issued by the Clerk. A denial may be appealed to the Township Council.~~

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~~§ 211-3. Identification and record of sale.~~

~~All licensees shall require each person offering an item for sale to produce identification and to sign a preprinted serialized receipt for said item containing the information required by N.J.S.A. 51:6A-1(e). A copy of such receipt shall be kept by the licensee for his records. These records and any item purchased by a licensee shall be available for inspection by the Police Department within 48 hours of purchase. All records must be maintained for one year after the transaction.~~

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~~§ 211-4. Fee.~~

~~The fee for a license under this chapter shall be as set forth in Chapter 172, Fees.~~

~~§ 211-5. Violations and penalties.~~

~~Except as provided herein, violations of this chapter shall be punishable as provided in Chapter 1, Article III, General Penalty.~~

Section 2.

CHAPTER 211, SALE OF USED GOODS AND EQUIPMENT

**§211-1 Definitions.**

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

“Occasional” as used herein shall mean less than once per month, as averaged over a twelve month period.

“Secondhand Dealer” shall mean

1. Except as provided in subsection 2 below, any person, partnership, limited liability company, corporation or other entity, who either wholly or in part, engages in or operates a trade or business of buying and/or selling used goods or equipment in the Township of Ewing (“Township”), such as antiques, precious stones, gold, silver, platinum or other precious metals, jewelry, coins, any tools, television sets, radios, record or stereo sets, electronic devices, musical instruments, sporting goods, automotive equipment, collectibles, and other electronically recorded material, firearms, cameras and camera equipment, video equipment, bric-a-brac, luxury clothing, furs, purses, watches, desktops, laptops, tablets, computers, portable GPS units, cell phones, gaming systems and video game consoles.

2. Secondhand dealer shall not be deemed to include:

(a) Judicial sales or sales by executors or administrators;

(b) Occasional or auction sales of household goods sold from private homes;

(c) Auctions of real estate;

(d) The occasional sale, purchase or exchange of coins or stamps by a person at his permanent residence, or in any municipally owned building by a person who is engaged in the hobby of collecting coins or stamps, and who does not solicit the sale, purchase or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television or other form of printed or electronic advertising.

**§ 211-2. License required; advertising.**

No person, partnership, limited liability company, corporation or other entity shall engage in business as a secondhand dealer without first obtaining a license from the Township Clerk. Advertising in any print or electronic media or by sign that any of those articles or goods referred to in subsection A(1) above are being bought in any location within the Township, shall constitute engaging in business as a secondhand dealer for purposes of this chapter. No person 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 Township. In any print advertisement, the license number shall appear in type no smaller than eight-point in the lower right-hand corner of the advertisement. In any advertisement in the electronic media, the license number shall be visually or audibly stated. Failure to state or indicate the license number shall be a violation of this chapter and shall be subject to the penalties established in this chapter.

**§ 211-3. Application process; approval or denial; appeal.**

1. Upon receipt of an application completed pursuant to this chapter, the Township Clerk shall refer such application to the Chief of Police, who shall make an investigation of the prospective licensee for the purpose of determining the suitability of the applicant for licensing. The 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 and goods referred to in subsection A(1) 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 based upon credible sources. The sources shall be disclosed to the applicant in the event of a denial of any license.

(c) Any criminal record of the applicant. The costs of fingerprinting and conducting a criminal background check shall be borne by 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 those articles and goods referred to in subsection A(1) above, and other factors bearing upon whether the licensed business will be of a fixed and permanent nature. This section, however, shall not be construed to require denial of any license solely on the grounds that the business is not conducted from a fixed location.

2. The Chief of Police shall complete the investigation within 30 days of the submission of a complete application to the Township Clerk. If a criminal record check has been requested within the 30 day period and has not been received by the Chief of Police within that period, the Chief of Police may, if all other factors are satisfactory, recommend a conditional issuance of the license subject to the finding regarding criminal record.

3. The Chief of Police shall, upon completion of the investigation, recommend grant or denial of the requested license to the Township Clerk, who shall grant or deny the license. Any recommendation of the Chief of Police shall be in writing and, in the case of a recommendation of denial, shall state fully and specifically the reasons for said recommendation. If the Township Clerk accepts the recommendation of the Chief of Police to deny any license, the applicant shall be notified, in writing, within 10 days of such denial. The Township Clerk shall provide the applicant with a statement of the reason or reasons for such denial. The applicant shall have 10 days after the mailing date of the notice to request reconsideration by the Township Clerk, and shall have the opportunity to provide the Township Clerk with any information in response to that set forth in the Township Clerk's notice of denial.

4. Grounds for recommending denial of a 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 the business or a secondhand dealer. A license may be denied if the investigation conducted by the Chief of Police reveals a conviction of the applicant or any of its principal officers or employees of any crime or disorderly person offense in which deceit or misrepresentation is an element of any conviction of any crime of disorderly persons offense involving theft or receiving stolen goods, regardless of whether the applicant was a principal, accessory before the fact, after the fact, or a co-conspirator. Upon receipt of the recommendation of the Chief of Police, the Township Clerk shall issue or deny the license accordingly, contingent upon the receipt of a bond as required by this chapter.

Whenever any application for a permit is denied, the applicant may appeal the denial to the Township Council by filing a written notice of appeal with the Township Clerk within 10 days after receiving written notice of the denial of a permit to act as a secondhand dealer. The Township Council shall hold a public hearing on the matter, in accordance with rules of procedure to be established by the Township Council, and may modify, affirm or reverse the decision denying a permit. An applicant filing an appeal must pay the sum of \$100.00 at the time the appeal is filed to cover the administrative cost of the appeal.

#### **§ 211-4. Identification of seller; required information.**

A licensee shall require of each person selling used goods or equipment as defined in subsection 211-1 above, suitable identification setting forth the true name and home address of the seller. Acceptable identification includes a valid driver's license issued by any state of the United States of America, a valid government-issued identification, or photo identification and one fingerprint, which will be recorded on the receipt retained by the licensee, and subsequently forwarded to the Ewing Township Police Department upon request. A licensee shall issue to each seller a serially numbered receipt setting forth the following information, completed by the licensee:

1. The name and business address of the licensee;
2. A detailed legible description of the item(s), and the manufacturer of the item(s). In the case of jewelry, description must include style, length, color, design and stones if any.
3. A statement in full of any identifying marks on the item, such as initials, names, dates, social security numbers engraved thereon, serial numbers or any other information, which sets apart the particular object from others of like kind.

4. If the item is purchased by weight, the troy ounce weight of the item.
5. The legible name of the clerk or employee of the licensee making the transaction.
6. The name and home address of the seller, which shall be verified by proof of identification. The receipt book shall be a record kept in the regular course of business of the licensee.
7. The actual price paid for the purchase of such item.
8. A photographed recording of the item(s) being purchased by the licensee will be ascertained by the Ewing Township Police Department. The photograph should be of digital JPEG format and quality, with the ability to be electronically transferred to a computer, and shall include a photograph of the identification presented by the seller and it shall be attached to the above-mentioned serially numbered receipt.

**§ 211-5. Retention of articles; minimum age; revocation of license; change of location.**

1. No licensee shall sell, alter or dispose of in any way any of those articles or goods referred to in subsection 211-1 above, until five (5) days have elapsed after the purchase of the same by the licensee and until the licensee shall have conformed to the recordkeeping and notice requirements of subsection 211-6 hereafter. It shall be an affirmative defense to any prosecution or administrative proceeding brought for a violation of this section if retention for the required time period would have resulted in serious and substantial economic losses to the purchaser, or the probability of such losses was significant due to rapid and highly fluctuating market conditions. A person or entity charged with a violation of the provision shall prove by a preponderance of the evidence the existence of the market conditions giving rise to this defense. Market conditions, in order to be defense hereunder, must be such that financial analysts would characterize trading as at or approaching a level or occurrence so as to clearly distinguish trading conditions from normal variations in market movement in response to economic news or other events.

2. No licensee shall purchase any item covered by this chapter from any person under the age of 18, or in the absence of providing prior notification of the proposed purchase to the Chief of Police, or designee, identifying the person from whom such purchase it to be made and the item to be purchased.

3. If any licensee shall be convicted of robbery, burglary, theft, receiving stolen goods or any other crime involving moral turpitude, the Township Council may, after notice and public hearing, revoke the license issued to the licensee.

4. A licensee shall have the right to change the location of the licensed business, provided that the licensee notifies the Township Clerk, in writing, of the street address of the new location of the business.

5. In the case of transactions involving the sale of goods between Secondhand Dealers, as defined herein, if the Selling Dealer of the goods has already complied with the record keeping and waiting period requirements of this Ordinance, the Purchasing Dealer may sell the goods immediately after forwarding a copy of all purchase receipts, including the original purchase receipts relating to the underlying purchase of the goods by Selling Dealer, to the Criminal Investigations Bureau of the Ewing Township Police Department either via e-mail, fax or hand delivery. The Purchasing Dealer shall also retain copies of all purchase receipts for the transaction, including those created by the Selling Dealer in the original purchase of the goods.

**§ 211-6. Recordkeeping; assignment of license.**

1. A licensee shall maintain duplicate copies of all issued seller receipts and photographs in legible form, for a period of at least two (2) years from the date of purchase by

the licensee. The receipts shall be available upon request for inspection, during normal business hours, by members of the Ewing Township Police Department. Copies of the receipts shall be made available for the Ewing Township Police Department at the licensee's expense. The license issued to the licensee shall be posted in a conspicuous place at the location of the licensed business.

2. Licensee shall forward a copy of all purchase receipts to the Criminal Investigations Bureau of the Ewing Township Police Department either via e-mail, fax or hand delivery not less than once every seven (7) days however, no articles or goods referred to in subsection 211-1 above shall be sold, altered or otherwise disposed of unless a copy of the purchase receipt shall have been emailed, faxed or hand delivered to the Criminal Investigations Bureau at least twenty four (24) hours before such disposition.

3. No license shall be assignable by the licensee.

**§ 211-7. Fees; period of license validity.**

The nonrefundable fee for initial application and license is \$200. The annual renewal fee for a license is \$100. A license is valid for a one-year period from the date of its issuance.

**§ 211-8. Violations and penalties.**

Any person, partnership, limited liability company, corporation, or other entity who shall violate any provision of this chapter shall, upon conviction thereof, be subject to the maximum fines and penalties established under N.J.S.A. 40:49-5, and as same shall be amended from time to time. Each and every day a violation of this ordinance shall exist shall constitute a separate violation.

**§ 211-9. Time limit for conformance.**

Any person, partnership, limited liability company, corporation, or other entity engaging in the business of a secondhand dealer shall conform to the provisions of this chapter within ninety (90) days following the effective date of this chapter.

Section 3.

This Ordinance shall take effect as provided by law.

**STATEMENT**

This Ordinance amends the Revised General Municipal Ordinances of the Township of Ewing to repeal Chapter 211 and establish rules, regulations and penalties for any person or entity engaging in the sale of use goods and equipment in the Township of Ewing.