

**RULES & REGULATIONS RELATING TO SECOND-HAND PRECIOUS
METALS AND GEM DEALERS**

BY VIRTUE OF THE AUTHORITY VESTED IN ME UNDER THE PROVISIONS OF THE NASSAU COUNTY ADMINISTRATIVE CODE TITLE D-1 §21-11.7(4), I HEREBY PROMULGATE THE FOLLOWING REGULATIONS RELATING TO SECOND-HAND PRECIOUS METALS AND GEM DEALERS.

1. Use of License Number and Company Name.

(a) All display advertising and promotional literature shall contain the licensee's license number as printed on the license.

(b) All display advertising and promotional literature shall contain the licensee's full company name as printed on the license.

(c) No Second-Hand Precious Metals and Gem Dealers shall permit his/her license and/or license number to be used by another.

2. Commercial Practices.

(a) Representations and illustrations of products or services offered to the public shall be accurately represented in all advertisements or descriptive material.

(b) Materials to be furnished shall be accurately described.

(c) Warranty or Guarantee. Where reference is made to a warranty or guarantee, such warranty or guarantee shall be clearly disclosed including the subject of the warranty or guarantee and the terms and requirements, if any.

(d) Price Reductions. All references to a price reduction or savings must be based on the usual and customary selling price of the item in the regular course of business. Such statements or representations shall not be based upon fictitious prices or infrequently used prices.

(e) Pricing. Where a price is quoted which does not include cost for labor, parts or accessories necessary for the proper functioning or appearance of a product or service, then said extra cost shall be prominently noted in conjunction with the price quoted. (e.g. "necessary accessories at extra cost.")

(f) Fingerprinting. Individual owner(s) (sole proprietorship), general partners (partnership), officers, directors and stockholders holding more than five percent (5%) of the outstanding stock (corporation) are required to submit to fingerprinting. All fees are to be paid by applicant.

3. **Form of Bonds.**

The bond or other surety to the County of Nassau as required under §21-27.4(3) must be in such form as is acceptable to the County Attorney.

4. **Lost or Misplaced Licenses.**

Any dealer who should misplace or lose his/her Second-Hand Precious Metal and Gem Dealers License shall immediately file an affidavit of loss with the Office of Consumer Affairs. The fee for the issuance of a replacement license is twenty (\$20.00) dollars.

5. **Age Qualification.**

In order to obtain a Second-Hand Precious Metals and Gem Dealers License from the Nassau County Office of Consumer Affairs, the applicant must be eighteen (18) years of age.

6. **Insurance.**

All Second-Hand Precious Metals and Gem Dealers shall submit proof of insurance to the Office of Consumer Affairs for each year of the license and must contain the license number and expiration date of the license on the form or on an attached cover letter.

7. **Hearings and Decisions.**

(a) Notice. No license shall be revoked until after a hearing before an officer or employee of the Commissioner designated for such purpose, upon at least ten (10) days written notice to licensee except as provided for in this section. The notice shall be served by registered or certified mail and shall state the date and place of hearing and set forth the ground(s) constituting the charges against the licensee. If licensee fails to attend the hearing, the Commissioner shall revoke the license of said licensee.

(b) Suspension of License. Any person who fails to pay any such fine, penalty or pending compliance of any Order imposed by the provisions of this Title, shall be subject to suspension of his/her license.

8. **Restrictions.**

(a) The Office of Consumer Affairs must be notified prior to a change of any weighing or measuring device.

(b) Only devices for use in trade which have been approved by the New York State Department of Agriculture and Markets shall be lawful.

(c) New York Agriculture and Markets Law Article 16, Section 182. No person shall use, for the purpose of determining weight, quantity or price of any commodity sold, or offered

or exposed for sale, any new, used or repaired weighing or measuring device or system, or accessory related thereto, unless he/she has first notified the Commission by written notice.

9. **Unlicensed Dealing in Second-Hand Precious Metals and Gems.**

(a) Upon the service of a notice of violation upon, any person for the alleged violation of §21-27.2 (Unlicensed Dealing in Second-Hand Precious Metal and Gems), a police officer, the Commissioner, or his or her designated representative are required to effect the immediate closure of any business, which may be effected by either padlocking or otherwise securing the business premises at which the violation occurred, or, in the event the unlawful activity occurred at another location, such as a flea market, fair, bazaar, or religious or charitable organization function, by taking possession of the inventory of the person accused of unlawfully engaging in business as a second-hand precious metal or gem dealer.

(b) The Commissioner or a designee of the Commissioner shall hold a hearing to adjudicate the violation underlying the charges and the closure of the business or taking of inventory within five (5) business days of the date of the arrest or issuance of a notice of violation that resulted in the closing of the business or taking of inventory. The sole issue to be considered at such hearing is whether or not there was a violation of §21-27.2 and, if so, the amount of fines and/or civil penalties to be imposed.

(c) Following an adjudication that has resulted in a determination that a person has unlawfully engaged in business as a second-hand precious metal or gem dealer, the business premises may be released to that person, and/or in the event that business inventory was taken, the inventory may be released to that person, but only upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage incurred in enforcing this provision. If such adjudication results in a determination that the accused has not unlawfully engaged in business as a second-hand precious metal or gem dealer, such business premises or business inventory will be released to such person as soon as practicable.

(d) Notwithstanding the provisions of numbers (b) and (c) above, no business premises shall be unlocked or inventory returned to such person unless and until such person submits an application for a license to engage in business as a second-hand precious metal or gem dealer in Nassau County.

10. **Adjudication of Violations.**

(a) A fine may be imposed pursuant to §21-27.16 for violations of the provisions of Article D-18 (other than violations of §21-27.2) only after a hearing before an officer or employee of the Commissioner, designated for such purpose by the Commissioner, upon notice to the licensee of at least ten (10) days. If the accused has not been previously served with a notice of violation, the notice shall be served upon the accused by registered or certified mail and shall state the date and place of hearing and set forth the ground or grounds constituting the charges against the licensee. The licensee shall be heard in his defense either in person or by counsel and may offer evidence on his behalf. The Commissioner or any officer or employee of the department designated by the Commissioner may administer oaths, take testimony, subpoena

witnesses and compel the production of book, papers, records and documents deemed pertinent to the subject of investigation. If the licensee fails to attend such hearing, the hearing officer or other designee shall impose the maximum fine or civil penalty permitted under § 21-27.16.

(b) The Commissioner shall review such findings and the recommendation and, after due deliberation, shall issue a final order accepting, modifying or rejecting such recommendation.

(c) Any fine imposed as a result of such final decision of the Commissioner shall be payable to the County of Nassau, in the manner and within the time specified by the order.

(d) Any fine authorized by § 21-27.15 may be waived or compromised by the Commissioner or his designated representative in the best interests of the County.

11. **Revocation and Suspension Hearings.**

(a) Before an issued license is suspended or revoked pursuant to the authority granted the Commissioner under §21-27.7 (1), (2) or (3), the licensee shall, by registered or certified mail, be informed of the alleged violation and be directed to appear at a hearing to show cause why the license should not be suspended or revoked as the case may be. A hearing shall be conducted before an officer or employee of the Commissioner designated for such purpose by the Commissioner upon notice to the licensee of at least ten (10) days. If the accused has not been previously served with a notice of violation, the notice shall be served upon the accused by registered or certified mail and shall state the date and place of hearing and set forth the ground or grounds constituting the charges against the licensee. The licensee shall be heard in his defense either in person or by counsel and may offer evidence on his behalf. The Commissioner, or any officer or employee of the department designated by the Commissioner, may administer oaths, take testimony, subpoena witnesses and compel the production of book, papers, records and documents deemed pertinent to the subject of investigation. If the licensee fails to attend such hearing, the hearing officer or other designee shall recommend that the licensee's license be revoked.

(b) Following the hearing, the Commissioner shall issue an initial determination as provided in §21-27.6 (4) based upon the hearing officer's recommendation. Any sanction to be imposed shall take effect ten days after service of the decision upon the licensee by certified or registered mail.

(c) In the event that the licensee seeks a formal hearing pursuant to the provisions of §21-27.7(5), the imposition of the sanction imposed shall be deemed stayed pending the formal hearing and issuance of the Final Determination of the Commissioner. The sanction, if any, will be reinstated and deemed final and binding upon the licensee ten (10) days from the service of the Commissioner's Final Determination by either registered or certified mail.