Passed 6-2 (Rollo volan) speckler absent

ORDINANCE 13-11

TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "BUSINESS LICENSES AND REGULATIONS"
- Re: Chapter 4.04 (Business Licenses Generally - *deleted*); Chapter 4.18 (Pawnbrokers - *revised*); Chapter 4.20 (Secondhand Dealers - *revised*); Chapter 4.22 (Dealers in Valuable Metals - *added*); Chapter 4.24 (Taxicabs - *revised*); Chapter 4.28 (Jitneys - *deleted*); and, Chapter 4.30 (Horse-Drawn Vehicles for Hire - *deleted*)

WHEREAS, significant chapters of Title 4 of the Bloomington Municipal Code have not been updated in over twenty years, and a review of such has determined that Chapters 4.04, 4.28 and 4.30 are no longer necessary and appropriate; and

WHEREAS, theft and the commission of crime dictate that local law enforcement agencies aggressively search for stolen property in an effort to return property to the victims of those crimes; and

WHEREAS, despite the best efforts of local pawnbrokers, secondhand good dealers, and scrap metal dealers and their dedication to working with local law enforcement agencies to immediately identify stolen property, stolen property is occasionally and unwittingly transferred through these local businesses; and

WHEREAS, because these three types of industries have outgrown the City's current ability to effectively and efficiently identify criminal activity, an automated system is needed to allow law enforcement officials the opportunity to timely collect and share transaction information more efficiently; and

WHEREAS, this automated system entails the electronic transfer of information regarding a purchase of goods, is necessary and appropriate, and is required by this ordinance; and

WHEREAS, the Chapter regulating taxicabs has not been updated in over thirty years and minor changes are needed to the Chapter's: insurance requirements, safety inspections, fees, revocation of license procedures;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Chapter 4.04 Business Licenses Generally

SECTION 1. Chapter 4.04, entitled Business Licenses Generally, shall be deleted in its entirety.

Chapter 4.18 Pawnbrokers

SECTION 2. Section 4.18.020(a) shall be amended by adding the following language to the end of this subsection: "Applications shall include a copy of the following: completed application for the State's Pawn broking License submitted to the State's Department of Financial Institutions; and State Pawn broking License. Upon completion of the license application, a pawnbroker license shall be issued to the applicant for that calendar year. A record of such license shall be kept in the office of the city controller."

SECTION 3. Section 4.18.030 (License fees) shall be deleted in its entirety, all remaining sections shall be renumbered accordingly, and the table of contents at the beginning of this chapter shall be amended to reflect these changes.

SECTION 4. Section 4.18.040 (Revocation of license) shall be deleted in its entirety and replaced with the following and the change in heading shall be reflected in the table of contents of the chapter:

4.18.030 Penalties – Revocation of license

(a) Any person, partnership, association, or corporation which violates any provision of this chapter, shall be subject to the following penalties:

(1) Operating as a pawnbroker without a license.

First offense	$240.00
Second offense within any 12-month period	$500.00
Third offense, or thereafter, within any 12-month period	$1,000

(2) Failure to provide complete reports to police department in a timely manner.

First offense	$50.00
Second offense within any 12-month period	$100.00
Third offense, or thereafter, within any 12-month period	$250.00

(b) In addition, the Controller's Office shall, after notice and hearing by the Board of Public Works, revoke, by written order, any license issued hereunder if the Board finds that:

(1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter; or

(2) The licensee is conducting the business licensed under this chapter in a manner contrary to State or local code;

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.

SECTION 5. *This section was deleted and left blank with the adoption of Am 08.*

SECTION 6. The newly renumbered Section 4.18.050 (Information for police department) shall be amended by deleting the phrase "24 hours" and replacing it with the words "two business days" as it appears in the first sentence, by deleing the words "social security number" and replacing them with the words "government issued photographic identification number" and by further deleting the sentence "Information shall be collected at least once a week during normal business hours by the police department" and replacing it with the following: "Information shall be electronically transferred, within two business days of receiving said article, via a law enforcement website designated as an agent of the City of Bloomington Police Department for the sole purpose of collecting such records. At no time shall the City of Bloomington Police Department designate an agent which shall charge the licensee any type of fee".

SECTION 7. The newly renumbered Section 4.18.060 (Retention of acquired property) shall be amended by deleting the phrase "ten days" and replacing it with the phrase "seven days" and be further amended by deleting the phrase "card record required by this chapter is collected by the police department" and replacing it with "the property has been acquired by the pawnbroker".

Chapter 4.20 Secondhand Dealers

SECTION 8. The Section headings under Chapter 4.20, entitled Secondhand Dealers, shall be amended so as to include the following two additional sections: "4.20.060 – Information for police department" and "4.20.070 – Penalty".

SECTION 9: Section 4.20.010 shall be amended so as to include the following additional language at the end of the section: "No license shall be required if the person or corporation is primarily engaged in the business of buying, selling, trading or otherwise acquiring or purchasing one or more of the following: clothes, cars, books, watercraft, farm equipment, cd's, or lp's. No license is required for any of the following: garage sale; estate sale; any sale that is held by a transient vendor and lasts no more than twenty-four (24) hours; any sale held by either a charitable or political organization; persons or businesses which only occasionally engage in the purchase of used goods so long as this occasional business does not total more than five thousand dollars ($5,000.00) worth of purchases in any one calendar year; thrift stores, consignment stores; or antique stores or malls."

SECTION 10. Section 4.20.020 (License – Application – Fee – Issuance – Record) shall be amended be deleting the body of the provision and replacing it with the following:

> The person or corporation described in Section 4.20.010 shall file a written application for a secondhand dealer's license with the office of the City Controller. Such license shall require the name of the applicant; if the applicant is a corporation, the name of the officer and their own personal address is required. The place of business of the applicant shall also be stated. Upon completion of the license application, a secondhand dealer's license shall be issued to the applicant for that calendar year. A record of such license shall be kept in the office of the city controller. No fee shall be required to obtain this license.

SECTION 11. Section 4.20.030 (License – Display) shall be amended so as to delete the phrase "police officer of the city" and replace it with "law enforcement officer".

SECTION 12. Section 4.20.040 (License to be held twenty-four hours before sale) shall be amended so as to delete the phrase "twenty four hours" and replace it with "seven business days" wherever it appears in the section and the table of contents shall be amended to reflect the change in the title of the section.

SECTION 13. Chapter 4.20 shall be amended to add a new section entitled "4.20.060 – Information for police department" and it shall read as follows: "All licensees under this chapter shall provide information for each article sold or received to the City of Bloomington Police Department within two business days of receiving said article. Such information shall include a description of the property, along with serial numbers or identifying marks, if any, and all of the following information on the seller: name, signature, address, date of birth, and government identification number. Information shall be electronically transferred, within two business days of receiving said article, via a law enforcement website designated as an agent of the City of Bloomington Police Department for the sole purpose of collecting such records. At no time shall the City of Bloomington Police Department designate an agent which shall charge the licensee any type of fee."

SECTION 14. Chapter 4.20 shall be amended to add a new section entitled "4.20.070—Penalties—Revocation of license" the heading of which shall be added to the table of contents of this chapter and the substance of which shall read as follows:

4.20.070 Penalties - Revocation

(a) Any person, partnership, association, or corporation which violates any provision of this chapter, shall be subject to the following penalties:

(1) Operating as a secondhand dealer without a license.

First offense	$240.00
Second offense within any 12-month period	$500.00
Third offense, or thereafter, within any 12-month period	$1,000

(2) Failure to provide complete reports to police department in a timely manner.

First offense	$50.00
Second offense within any 12-month period	$100.00
Third offense, or thereafter, within any 12-month period	$250.00

(b) In addition, the Controller's Office shall, after notice and hearing by the Board of Public Works, revoke, by written order, any license issued hereunder if the Board finds that:

(1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter; or

(2) The licensee is conducting the business licensed under this chapter in a manner contrary to State or local code;

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.

Chapter 4.22 Dealers in Valuable Metals *(New)*

SECTION 15. A new chapter shall be added to Title 4 entitled "Chapter 4.22 Dealers in Valuable Metals" which shall be listed as such in the Table of Contents for that title and shall read as follows:

"Chapter 4.22 Dealers in Valuable Metals

Sections:

4.22.010—Definitions.
4.22.020—Application for license.
4.22.030—Penalties—Revocation of license.
4.22.040—Books and records.
4.22.050—Information for police department.

4.22.010 – Definitions.

(a) "Valuable metal" shall be defined as set forth in IC 25-37.5-1-1, as amended.

(b) "Valuable metal dealer" means any person, partnership, association or corporation engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk cars or trucks. The term does not include a person who purchases a vehicle and obtains title to the vehicle.

(c) "Purchase" means acquiring a valuable metal product for a consideration, but does not include the following:

(1) Purchases between scrap metal processing facilities as defined by IC 8-23-1-36, as amended; or
(2) Purchases from a business or corporation provided the consideration paid to the business or corporation is made payable directly to the business or corporation and not an individual.

4.22.020 – Application for license.

(a) No person, partnership, association or corporation shall engage or continue in business as a valuable metal dealer except as authorized by this chapter and without first obtaining a license from the City Controller. Application for such license shall be in writing and shall state the full name and place of residence of the applicant, or if the applicant is a partnership, the full name and place of residence of each member thereof, or, if a corporation or association, the full name and place of residence of each officer thereof, together with the place or places where the business is conducted. Upon completion of the license application, a valuable metal dealer license shall be issued to the applicant for that calendar year. A record of such license shall be kept in the office of the city controller.

(b) All applicants shall, as a condition for the granting of a license and on a portion of the application provided by the City Controller, agree that in the event the applicant as licensee receives merchandise of any kind which is stolen, he claims no right, title or interest in and to said merchandise, and that upon request by a law enforcement official having probable cause to believe that the merchandise is stolen, he will voluntarily surrender said merchandise to the possession of that law enforcement agency when given a receipt for the same.

4.22.030 – Penalties - Revocation of license.

(a) Any person, partnership, association, or corporation which violates any provision of this chapter, shall be subject to the following penalties:

(1) Operating as a valuable metal dealer without a license.

First offense	$240.00
Second offense within any 12-month period	$500.00
Third offense, or thereafter, within any 12-month period	$1,000

(2) Failure to provide complete reports to police department in a timely manner.

First offense	$50.00
Second offense within any 12-month period	$100.00
Third offense, or thereafter, within any 12-month period	$250.00

(b) In addition, the Controller's Office shall, after notice and hearing by the Board of Public Works, revoke, by written order, any license issued hereunder if the Board finds that:

(1) The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required by Indiana Code 25-37.5 as amended, or to comply with any ruling or requirements lawfully made pursuant to and within the authority of this chapter; or

(2) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter; or

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, clearly would have permitted the Controller's Office to refuse originally to issue such license.

4.22.040 – Books and records.

The licensee shall keep records of each valuable metal purchase on the form provided by the Indiana State Police as required by Indiana Code 25-37.5-1-2 as amended. Additionally, each valuable metal dealer shall make and retain a copy of the government issued photographic identification used to identify the person from whom the valuable metal was purchased. All such records shall be maintained by the licensee for two (2) years. All such records shall be made available to any law enforcement officer upon request by said officer during normal business hours.

Section 4.22.050—Information for police department.

(a) In addition to the records required by this chapter, all licensees under this chapter shall provide information for each of the following articles purchased or received to the City of Bloomington Police Department within two business days of receiving said article:

(1) Copper;
(2) Catalytic converters;
(3) Farm irrigation equipment;
(4) Electrical wiring;
(5) Yard/house ornaments;
(6) Historical markers, plaques, and cemetery vases;
(7) Telecommunication wiring;
(8) Aluminum siding/gutters;
(9) Transformer wiring;
(10) Rail telecommunications equipment and wire; power and signal equipment and wires; road/rail crossing signs; switching components; railroad track; spikes, angle bars, tie plates or bolts used in the construction of railroads;
(11) Vehicles;
(12) Bicycles; and
(13) Any product made of metal that may readily be sold if the product is purchased or received from an individual who has entered into at least two other prior separate transactions with the valuable metal dealer involving metal that may readily be sold in the preceding thirty calendar days.

(b) Such information shall include the name of the person who sold the product to the valuable metal dealer and a description of the articles purchased. Information shall be electronically transferred via a law enforcement website designated as an agent of the City of Bloomington Police Department for the sole purpose of collecting such records. At no time shall the City of Bloomington Police Department designate an agent which shall charge a licensee any type of fee.

4.22.060 – Retention of acquired property.

All property received by a licensee under this article shall be held intact by the licensee for at least seven days after the property has been acquired by the valuable metal dealer."

Chapter 4.24 Taxicabs

SECTION 16. The section headings at the beginning of Chapter 4.24, entitled Taxicabs" shall be amended so that section 4.24.150 is entitled "Penalties - Revocation of License" instead of "Complaints" and so that sections 4.24.160 and 4.12.170 are deleted in their entirety.

SECTION 17. Section 4.24.010 (Definition) shall be amended by deleting the word "six" and replacing it with the word "eight (8)".

SECTION 18. Section 4.24.040(d) shall be deleted in its entirety.

SECTION 19. Section 4.24.050 (Business license – Insurance required) shall be deleted in its entirety and replaced with the following:

4.24.050 Business license—Insurance required.

(a) It is unlawful for any person to operate a taxicab within the City of Bloomington unless at the time of such operation the owner has in effect a valid policy of commercial general liability coverage and a valid policy of automobile coverage on each of the vehicles used by the company. Proof of insurance shall be provided by an applicant for a taxicab license at the time of application. Applicant shall also provide the city with a municipal hold-harmless certificate.

(b) The terms of the commercial general liability policy shall provide that the insurance company assumes financial responsibility in an amount not less than one million dollars per occurrence or two million dollars in the aggregate.

(c) A valid certificate of insurance issued by a company providing the required insurance policies shall be available for inspection at the owner's principal place of business. A certificate of insurance shall provide that the insurer will immediately notify the controller of any cancellation of, or change in, the owner's insurance policies and that such notice shall be in writing and shall be sent by registered mail at least thirty days before cancellation of the policy. The certificate shall include all of the following:

(1) The full name of the insurer;
(2) The name and address of the insured;
(3) The insurance policy number;
(4) The type and limits of coverage;
(5) The specific vehicles insured;
(6) The effective dates of the insurance policy; and
(7) The certificate issue date.

(d) Proof of insurance shall include that the City of Bloomington shall be held harmless and included as an additional insured on said insurance."

SECTION 20. Section 4.24.070(a) shall be amended by deleting the phrase "the chief of police or his designee has made a" and replacing it with "it has undergone an independent", and be further amended by deleting the period after the word "application" and replacing it with the following: "within the last two years; a copy of the safety inspection shall be included with the application.". This section shall be additionally amended by deleting the sentence: "The chief of police shall send a report of the inspection and his recommendation to the controller as soon as the inspection is completed."

SECTION 21. Section 4.24.070 shall be further in amended in the following manner:

(a) Section 4.24.070(b) shall be amended by deleting the phrase "been inspected by the chief of police or his designee" and replacing it with "undergone an independent safety inspection" and be further amended by adding the phrase "within the last two years" at the end of that provision.

(b) Section 4.24.070 shall be further amended by adding part (c), which shall read as fellows:

(c) If, at any time, the City of Bloomington has probable cause to believe that a taxicab is unsafe or in a mechanically unsound condition, the Chief of Police may order a taxicab licensed under this Chapter to undergo an immediate safety inspection. The immediate safety inspection must occur within five business days and a copy of the safety inspection report shall be promptly submitted to the Chief of Police. If the safety inspection reveals deficiencies with the taxicab, the taxicab can not be used until such time as the deficiencies have been remedied.

SECTION 22. Section 4.24.090(a)(3) shall be amended by adding the word "and" before "state" and by deleting the phrase "and city license plate number".

SECTION 23. Section 4.24.090(a)(4) shall be amended by deleting the phrase "state requirements" and replacing it with "this Chapter's requirements".

SECTION 24. Section 4.24.090(b) shall be amended by adding the phrase "in accordance with Indiana law" after the word "destroyed".

SECTION 25. Section 4.24.150 (Complaints) shall be deleted in its entirety and replaced with the following:

4.24.150 – Penalties - Revocation of license.

(a) Any person, partnership, association, or corporation which violates any provision of this chapter, shall be subject to the following penalties:

(1) Operating as a taxicab without a license.

First offense	$240.00
Second offense within any 12-month period	$500.00
Third offense, or thereafter, within any 12-month period	$1,000

(2) Failure to provide complete reports to police department in a timely manner.

First offense	$50.00
Second offense within any 12-month period	$100.00
Third offense, or thereafter, within any 12-month period	$250.00

(b) In addition, the Controller's Office shall, after notice and hearing by the Board of Public Works, revoke, by written order, any license issued hereunder if the Board finds that:

(1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter; or

(2) The licensee is conducting the business licensed under this chapter in a manner contrary to State or local code;

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.

SECTION 26. Section 4.24.160 (Suspension and revocation of license) shall be deleted in its entirety.

SECTION 27. Section 4.24.170 (Penalty) shall be deleted in its entirety.

Chapter 4.28 Jitneys

SECTION 28. Chapter 4.28, entitled Jitneys, shall be deleted in its entirety.

Chapter 4.30 Horse-Drawn Vehicles for Hire

SECTION 29. Chapter 4.30, entitled Horse-Draw Vehicles for Hire, shall be deleted in its entirety.

SECTION 30: Section 4.24.100 (Business license—Term and fee) shall be amended so as to delete the sentence "The fee for a taxicab license shall be ten dollars and shall be paid to the city controller in the form of either cash or certified check." The Section heading and table of contents for this chapter shall be further amended so as to delete the words "and fee" as they appear in the heading of the section.

SECTION 31. Section 4.18.010 (Definitions) shall be amended by deleting part (a) and replacing it with the following:

(a) "Pawnbroker" shall be defined as set forth in IC 28-7-5-2 as amended.

SECTION 31. If any sections, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 32. Title 4 (Business Licenses and Regulations) of the Bloomington Municipal Code shall be amended to change all references from "he" to "he/or she" and all references to "his" to "his/her" wherever they appear in this title to achieve gender-neutrality. The amendments include the following and any others found by the codifiers in the course of making these changes to Title 4 of the Bloomington Municipal Code:

(a) Section 4.18.010(b) shall be amended to delete the term "his" and replace it with the words "his/her" wherever it appears in this section;
(b) Section 4.18.010(c) shall be amended to delete the term "he" and replace it with the phrase "he/or she" wherever it appears in the section;
(c) Section 4.18.020(b) shall be amended to delete the term "he" and replace it with the phrase "he/or she" wherever it appears in this section;
(d) Section 4.18.050 shall be amended to delete the term "his" and replace it with the words "his/her" wherever it appears in this section;
(e) Section 4.20.030 shall be amended to delete the term "he" and replace it with the phrase "he/or she" wherever it appears in this section;
(f) Section 4.22.020(b) shall be amended to delete the term "he" and replace it with the phrase "he/or she" wherever it appears in this section;
(g) Section 4.24.030(b) shall be amended to delete the term "his" and replace it with the words "his/her" wherever it appears in this section; and
(h) Section 4.24.070(a) shall be amended to delete the term "his" and replace it with the words "his/her" wherever it appears in this section.

SECTION 33. Section 4.24.080 (Business license – Issuance) part (a) shall be amended to add the following language at the end of that part: 'A taxicab license shall be issued to the applicant for that calendar year and a record of such license shall be kept in the office of the city controller.'"

SECTION 34. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 18th day of SEPTEMBER, 2013.

DARRYL NEHER, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 25th day of SEPTEMBER, 2013.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 25TH day of SEPTEMBER, 2013.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance seeks to do four primary things. First, it seeks to delete provisions and regulations of the Title 4 that are no longer necessary; particularly those chapters which require the licensing of the following: carnivals; circuses; merry-go-rounds; museums; shooting galleries; skating rinks; theaters; pool tables; jitneys; and horse-drawn vehicles for hire. Second, it seeks to update the chapter regulating taxicabs, since no update has occurred in the last thirty years, to do the following: increase the number of passengers a taxicab can carry from six to eight; require insurance in accordance with the City's Risk Department's established amounts; require the safety inspections of all taxicabs to be conducted by an independent inspector instead of the City's Police Department; and establish a new procedure for the revocation of a license and new penalty provisions that are in line with other chapters of the City's municipal code. Third, it seeks to amend the chapters regulating pawnshops and secondhand dealers in three keys ways: (1) eliminate the license fee; (2) establish a new procedure for the revocation of a license and new penalty provisions that are in line with other chapters of the City's municipal code; and (3) require all such businesses to electronically transfer information regarding any item they purchased within 48 hours of said purchase via a law enforcement website designated as an agent of the City of Bloomington Police Department. Fourth, it seeks to add a new chapter to the municipal code, Chapter 4.22, entitled Dealers in Valuable Metals. This new chapter will require all dealers in valuable metals to be licensed by the city and will further require said dealers to electronically transfer information regarding any item purchased within 48 hours of the purchase via a law enforcement website designated as an agent of the City of Bloomington Police Department.

SYNOPSIS FOR REVISIONS

Revisions were submitted after the ordinance was distributed in the Weekly Council Legislative Packet but before the legislation was introduced at the Regular Session on August 28th. Here is a summary of those revisions:
In response to concerns by community members, the business community and stakeholders, the City Administration has made four changes to its original proposal (said changes being found in this version). First, the following types of transactions are now exempt from regulation in regards to valuable metal dealers: (1) purchases between scrap metal processing facilities as defined by IC 8-23-1-36, as amended; and (2) purchases from a business or corporation provided the consideration paid to the business or corporation is made payable directly to the business or corporation and not an individual. Second, the definition of valuable metal dealer was slightly amended to allow for the possibility that the Indiana General Assembly could amend their definition and we would want to be consistent with any change so made. Third, the insurance requirement section for taxicabs was amended to make it clear that taxicabs are to maintain two types of insurance: (1) commercial general liability insurance; and (2) automobile insurance. The commercial general liability insurance is to be at an amount of $1 million per occurrence and $2 million in the aggregate. Fourth, the independent safety inspections on all taxicabs will be required to occur once every two years, instead of once every year. Additionally, language was added which makes it clear that if the City believes a taxicab is unsafe or mechanically unsound the City has the right to call for an immediate safety inspection.

Note: On September 18, 2013, this ordinance was amended with the adoption of Am 01 through Am 08, which affected numerous sections of this ordinance.

Signed copies to:
legal
controller
Police
EC on Dev.
BMC
cs/cs clerk
HT for adv.