



City of Bloomington Common Council

Legislative Packet

18 September 2013

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402
812.349.3409

council@bloomington.in.gov
<http://www.bloomington.in.gov/council>



Packet Related Material

**Memo
Agenda
Calendar
Notices and Agendas:**

- **Notice of Listening Session on Marriage Equality** – Tuesday, September 17th in the Council Chambers at 6:00 pm

Legislation for Second Reading (Material in this Packet):

- **Revised Ord 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*)

Amendments Offered by the Office of the Mayor for Consideration at the Regular Session on September 18th

- **Am 01 – Removing Fee for Taxicab Licenses** (Inserting a new Section 30 to the ordinance which amends Section 4. 24.100 Business license— Term and fee)
- **Am 02 – Adding and Revising Exemptions to Secondhand Dealer Licenses** (Replacing Section 9 of the ordinance which amends Section 4.20.010 License – Required)
 - The changes would:
 - exempt businesses primarily engaged in transactions involving cds and lps; and
 - convert the threshold for exempting businesses with only occasional transactions involving used goods from 15% of purchases in a year to \$5,000 in any calendar year.

- **Am 03 – Changing the Definition of “Pawnbroker” to Mirror State Law** (Inserting a new Section 31 to the ordinance which amends Section 4.18.010 – Definitions)
- **Am 04 – Pertaining to Valuable Metal Dealers and Limiting the Local Reporting Requirement to a List of 13 Items Highly Susceptible to Theft, Removing the Local Holding Requirement, Correcting the Definition of “Purchases” to Exclude Rather than Include Certain Transactions, and Correcting Section Numbers in the Table of Contents for this Chapter – *Significantly Revised Since Issued in Last Week’s Packet*** (Changing Section 15 of the ordinance which adds a new Chapter 4.22 entitled “Valuable Metal Dealers”)
 - **A copy of the Chapter 4.22** which highlights the changes proposed by this amendment immediately follows the amendment in this packet;
 - After revisions, the changes:
 - Remove the local requirement to hold articles purchased or received by these dealers (part of the revised amendment);
 - Limit the local requirement to report articles purchased or received by these dealers from individuals to a list of 13 types of articles identified by the Indiana State Police as highly susceptible to theft (including transaction within 30 days involving items that may be readily sold (part of the revised amendment);
 - add a missing “not” between the words “does include” in the definition of “purchases”; and
 - correct the headings in the table of contents for the chapter.
- **Am 05 – Changing the Period for Pawnbrokers, Secondhand Dealers and Dealers in Valuable Metals to Report Certain Transactions from 24 Hours to Two Business Days** (Changing Sections 6, 13 and 15 of the ordinance which address “Information for the Police Department” for the aforementioned Businesses)
- **Am 06 – Requiring Pawnbrokers to Copy a Customer’s Government Issued Photographic Identification Number Rather than Their Driver’s License Number** (Changing Section 6 of the ordinance which amends the newly renumbered Section 4.18.050 (Information for police department))
 - This change will allow a broader range of identification documents to be used during these business transactions.

- **Am 08 – Standardizing the Penalty and Revocation Provisions and Issuance Provisions – *with Minor Revisions Since Last Packet***
(Changing Sections 2, 4, 5, 14, 15 and 25 and adding a new section at the end of the ordinance which affect Chapters 4.18 (Pawnbrokers); 4.20 (Secondhand Dealers); 4.22 (Valuable Metal Dealers) and 4.24 (Taxicabs))
 - These changes:
 - Provide the same penalties across the various chapters for operating without a license and failing to report transactions;
 - Clarify the bases for revocation of a license and apply those bases across the various chapters; and
 - Clarify that the Controller issues the license for one calendar year and keeps a record of those licenses.

Amendments Sponsored by Council Members for Consideration at the Regular Session on September 18th

- **Am 07 – (Sponsored by Cm. Granger) - Creating a Gender-Neutral Ordinance** (Inserting a new Section 32 of the ordinance which affects various provisions throughout Title 4).
 - These changes convert references to “he” and “his” to “he/ or she” and “his/her.”
- **Am 09 – (Sponsored by Cm. Volan) – Requiring Written Consent of the Customer Before Pawnbrokers, Secondhand Dealers, and Valuable Metal Dealers may Transfer Information about Affected Transactions to the Online Database Selected by the City** (Amending Sections 6, 13 & 15 of the ordinance affecting BMC Sections 4.18.050, 4.20.060, 4.22.050)
 - These changes:
 - Require written consent of the customer before the various licensees may transfer data about affected transactions to the online database selected by the Police Department; and
 - Include the language to be used to be signed by the customer.

Memos from Patty Mulvihill, Assistant City Attorney

- **Memo to Council** issued for the Regular Session and Committee of the Whole on August 28th;
- **Memo to the Council (and Exhibits A and B)** issued for the Regular Session on September 11th and Containing Responses to Questions Raised on August 28th

Contact:

- *Patty Mulvihill at 349-3426 or mulvihip@bloomington.in.gov*
- *Chief Diekhoff at 349-3310 or diekhofm@bloomington.in.gov*

Please see the weekly Council Legislative [Packet issued for the 28 August 2013 Regular Session and Committee of the Whole](#) for the legislation (before it was revised), summary, and accompanying material.

Legislation and Background Material for First Reading:

None

Minutes from Regular Session:

None

Memo

**Alert: Staff/Council Internal Work Session on Monday is Still Scheduled for
Noon in the McCloskey Room
– Topic: Changes to Ord 13-11 – Particularly Revisions to Am 04**

**One Item Ready for Second Reading and No Items Ready for Introduction at
the Regular Session on Wednesday, September 18th**

Last week the Council voted to postpone consideration of Ord 13-11 (Revisions to Title 4 of the BMC – Business Licenses and Regulations) until this Wednesday in order to give the Council and public more time to understand the ordinance and proposed amendments, and also provide more time for the Administration to meet with businesses and, particularly in the case of valuable metal dealers, try to reach an accord about the requirements to report and hold articles purchased from individuals.

The contents of this packet were selected with the goal of compiling information about Ord 13-11 (Amendments to Title 4 – Business Licenses and Regulations) in one place and, thereby making it easier for everyone to understand the ordinance and amendments. It contains the:

- Revised ordinance submitted on August 28th;
- Amendments 01 – 09. Please note that:
 - Am 01 – 06 and Am 08 are proposed by the Administration, and that those amendments and Am 07, which is sponsored by Cm. Granger, are supported by the Administration;
 - Am 04 – which pertains to Valuable Metal Dealers - has been revised to:
 - List 13 items identified on the Indiana State Police website as highly susceptible to theft (including any metal that may be readily sold if purchased or received from an individual and that individual has entered into two similar transactions with the dealer in any 30 day period¹); and
 - Delete the local retention of property requirement (which means that local law enforcement must rely upon dealers complying with the State law requirements);
 - Am 08 – which standardizes the penalty and revocation provisions as well as the issuance of license provisions - has been revised since sent out in the last weekly packet to:
 - make minor corrections that assure that the type of businesses are properly identified in these provisions;
 - Am 09 – is sponsored by Cm. Volan. It:
 - would require the transfer of information about transactions to the online database only upon written consent of the customer and also includes the language for that written consent;
 - may be revised by the sponsor to tie the written consent to information about the *person* and not the article of property; and
 - is the one amendment not supported by the Administration.
- Memo to Council submitted for the August 28th Regular Session (prior to the revisions); and
- Memo to the Council and exhibits contained in the weekly Council Legislative Packet issued for the September 11th Regular Session - with responses to questions raised at the August 28th Committee of the Whole.

¹ State law requires that records be kept of relevant transactions.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, SEPTEMBER 18, 2013
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: *None*

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Council Members**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. 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*)

Highlight of Previous Council Actions

Committee Recommendation (on August 28 th):	Do Pass	0 - 0 - 8
Regular Session Action (on September 11 th):	Postpone Until September 18 th	9 - 0 - 0

Notes for the Public:

- *As noted above, the Council decided last week to postpone further consideration of this item until this evening; and*
- *Multiple amendments to this item are anticipated this evening and will be available for review in the Council Office in the days before the meeting as well as at the desk on the left side of the Chambers during the meeting.*

VII. LEGISLATION FOR FIRST READING

None

VIII. ADDITIONAL PUBLIC COMMENT* (A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

** Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.*



**City of Bloomington
Office of the Common Council**

To Council Members
From Council Office
Re Weekly Calendar – 16 – 21 September 2013

Monday, 16 September

12:00 pm Council-Staff Internal Work Session, Hooker Room
12:00 pm Bloomington Entertainment and Arts District, McCloskey Room
5:00 pm Farmers' Market Advisory Council, Parks Room
5:30 pm Bicycle and Pedestrian Safety Commission, Hooker Room

Tuesday, 17 September

10:00 am Wage Rate Hearing Meeting, McCloskey Room
11:30 am Plan Commission Work Session, Kelly Room
4:00 pm Bloomington Community Farmers' Market, between 6th and Madison St
4:00 pm Board of Public Safety, McCloskey Room
5:30 pm Commission on the Status of Children and Youth, Hooker Room
5:30 pm Animal Control Commission, McCloskey Room
6:00 pm Marriage Equality Listening Session, Council Chambers

Wednesday, 18 September

9:30 am Tree Commission – Bryan Park North Shelter, 1001 N. Henderson
2:00 pm Hearing Officer, Kelly Room
2:00 pm Quote Opening for 4th Street and Walnut Street Parking Garage Repairs, McCloskey Room
5:30 pm Board of Housing Quality Appeals, McCloskey Room
7:00 pm Council of Neighborhood Associations, Hooker Room
7:30 pm Common Council Regular Session, Council Chambers

Thursday, 19 September

8:00 am Bloomington Housing Authority – 1007 N. Summit, Community Room
9:00 am Emergency Management Advisory Council, Council Chambers
5:15 pm Monroe County Solid Waste Management District Citizens' Advisory Council, McCloskey
7:00 pm Environmental Commission, McCloskey Room

Friday, 20 September

12:00 pm Monroe County Domestic Violence Task Force, McCloskey Room

Saturday, 21 September

8:00 am Bloomington Community Farmers' Market, Showers Common – 401 N. Morton
10:00 am Fiesta del Otoño, Showers Plaza – 401 N. Morton

Posted and Distributed: Friday, 13 September 2013

401 N. Morton Street • Bloomington, IN 47404

City Hall

Phone: (812) 349-3409 • Fax: (812) 349-3570

www.bloomington.in.gov/council
council@bloomington.in.gov



**City of Bloomington
Office of the Common Council**

Notice

**Listening Session
on
Marriage Equality**

**Tuesday, 17 September 2013
6:00 pm
Council Chambers, Suite 115
City Hall, 401 North Morton**

Three Councilmembers will hold a listening session to hear from stakeholders about issues related to marriage equality.

Because a quorum of the Council may be present, this provides notice that this listening session will occur and members of the public are invited to observe and record what transpires.

Posted: Friday, 13 September 2013

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.”

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. The newly renumbered Section 4.18.030(a) shall be amended by deleting the phrase “, or to comply with any ruling or requirements lawfully made pursuant to and within the authority of this chapter”.

SECTION 5. The newly renumbered Section 4.18.030(d) shall be amended by deleting the phrase “penalties imposed by Section 1.01.130” and by adding the following language to the end of this subsection:

(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

SECTION 6. The newly renumbered Section 4.18.050 (Information for police department) shall be amended by deleting the number “24” and replacing it with “48” as it appears in the first sentence, by deleting the words “social security number” and replacing them with the words “driver’s license 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 48 hours 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, or farm equipment. No license is required for a garage sale, an estate sale, any sale that is held by a transient vendor and lasts no more than twenty-four (24) hours, or any sale held by either a charitable or political organization. No license is required if the person or corporation only occasionally engages in the purchasing of used goods so long as this occasional business does not total more than fifteen (15) percent of the business’s purchases in any one year. No license shall be required if the person or corporation is engaged in the business of operating a thrift store, consignment store, or antique store or mall.”

SECTION 10. Section 4.20.020 (License – Application – Fee – Issuance – Record) shall be amended by 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 48 hours 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 48 hours 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 – Penalty” and it shall read as follows:

“Any person who violates this chapter shall be subject to the following fines:

(A) 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

(B) 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

(C) In addition to the fines above, the Controller may refuse to license, suspend a license, or revoke a license, following a hearing in front of the Board of Public Works, to any business that violates the requirements of this chapter.”

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.**
- 4.22.040 – Penalties - Revocation of license.**
- 4.22.050 – Books and records.**
- 4.22.060 – Information for police department.**
- 4.22.070 – Retention of acquired property.**

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 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.
- (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.

4.22.050 – Information for police department.

In addition to the records required by this chapter, all licensees under this chapter shall provide information for each article purchased to the City of Bloomington Police Department within 48 hours of purchasing said article. 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 follows:

(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 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.

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. 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 31. 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 _____ day of _____, 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 _____ day of _____, 2013.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 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.

(Over)

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.

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: 01
Submitted By: Office of the Mayor
Date: September 6, 2013

Proposed Amendment:

1. Ord 13-11 shall be amended by inserting a new Section 30 and renumbering the subsequent sections of the ordinance accordingly. This new Section 30 shall read as follows:

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.

Synopsis

This amendment deletes any fee requirement for a taxicab license. The fee is being deleted because the City recognizes that taxi cab companies will face an increased administrative cost by the new requirement that each taxi cab undergo a vehicle safety inspection from an independent third party.

8/28/13 Committee Action: None
9/11/13 Regular Session Action: Pending

(September 6, 2013)

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: 02
Submitted By: Office of the Mayor
Date: September 6, 2013

Proposed Amendment:

1. Ord 13-11 shall be amended by deleting Section 9 and replacing it with the following new Section 9.

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.”

Synopsis

This amendment does two primary things. First, it changes the exemption for businesses that only occasionally purchase used goods from a percentage basis to a dollar basis. Businesses that purchase more than \$5,000.00 worth of used goods in any one calendar year will be subject to the requirements of the Secondhand Dealer Chapter. Second, it exempts businesses that primary purchase used cd’s and lp’s.

8/28/13 Committee Action: None
9/11/13 Regular Session Action: Pending

(September 6, 2013)

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: 03
Submitted By: Office of the Mayor
Date: September 6, 2013

Proposed Amendment:

1. Ord 13-11 shall be amended by inserting a new Section 31 and renumbering the subsequent sections of the ordinance accordingly. The new Section 31 shall read as follows:

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.

Synopsis

This amendment changes the definition of pawnbroker to mirror the definition in State law (I.C. 28-7-5-2). That definition currently reads:

"Pawnbroker" means any person, partnership, association, limited liability company, or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness."

8/28/13 Committee Action: None
9/11/13 Regular Session Action: Pending

(September 6, 2013)

*****Amendment Form*****

Ordinance #: 13-11
Amendment #: 04 (Revised)
Submitted By: Office of the Mayor
Date: September 16, 2013

Proposed Amendment:

1. Ord 13-11 shall be amended by amending Section 15 in the following manner:

(a) The section headings for Chapter 4.22 (Dealers in Valuable Metals) shall be amended to renumber Sections 4.22.040 through 4.22.070 as 4.22.030 through 4.33.050 as indicated below:

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.**

(b) Section 4.22.010 (Definitions), part (c), shall be amended by inserting the word “not” after the word “does” and before the word “include” as they appear in the first two lines of that part.

(c) Section 4.22.050 (Information for police department) shall be deleted and replaced with the following:

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 ~~48 hours~~ 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.

(d) Section 4.22.060 (Retention of acquired property) shall be deleted in its entirety.

Synopsis

This amendment does four things. First, it fixes a number error in the heading of the new Chapter 4.22. Second, it corrects the definition of “purchase” to exempt rather than include certain transactions. Third, it changes what items valuable metal dealers are required to report to the police department. In the original version of the ordinance all metal materials purchased or acquired by the valuable dealers from individuals had to be reported to the police department. This amendment seeks to limit the items that must be reported to the police department. Items that are identified by the Indiana State Police on their website as being highly susceptible theft are required to be reported. If an individual, not a corporation or business, sells any metal to the valuable dealer on at least three separate occasions in a thirty day period those transactions have to be reported to the police department. Fourth, the retention period is being deleted in its entirety. Valuable metal dealers will be expected to comply with the retention schedules located in Ind. Code Chapter 25-37.5.

9/28/13 Committee Action: None

9/11/13 Regular Session Action: None

9/17/2013 Regular Session Action: Pending

(September 16, 2013)

Chapter. 4.22 Dealers in Valuable Metals
(New Chapter added by Ord 13-11 – Section 15)

Sections:

- 4.22.010 – Definitions.**
- 4.22.020 – Application for license.**
- 4.22.030 – Revocation of license.**
- 4.22.040 – Books and records.**
- 4.22.050 – Information for police department.**
- 4.22.060 – Retention of acquired property.**

4.22.010 – Definitions.

- (a) “Valuable metal” shall be defined as set forth in IC 25-37.5-1-1.
- (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 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.
- (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/she 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. 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 city controller.

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.

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 ~~48 hours~~ 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.

Comment [1A1]: Change proposed with Amendment 5.

Comment [1A2]: Change proposed with Modified Amendment 4.

(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.~~

Comment [1A3]: Change proposed with Modified Amendment 4.

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: 05
Submitted By: Office of the Mayor
Date: September 6, 2013

Proposed Amendment:

1. Ord 13-11 shall be amended in the following manner:

(a) Section 6, which affects BMC Section 4.18.050 (Information for police department), shall be deleted and replaced with the following:

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 deleting the words “social security number” and replacing them with the words “driver’s license 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”.

(b) Section 13, which affects BMC Section 4.20.060 (Information for police department), shall be amended by deleting the phrase “48 hours” and replacing it with the words “two business days” wherever it appears in Section 13.

(c) Section 15, which inserts a new Chapter 4.22 (Dealers in Valuable Metals) into Title 4, shall be amended in the following manner: The phrase “48 hours” shall be replaced with the words “two business days” wherever it appears in Section 4.22.050 (Information for police department).

Synopsis

This amendment changes the reporting requirement for pawnshops, secondhand dealers, and valuable metal dealers from forty-eight hours to two business days to better accommodate the business’s work periods.

8/28/13 Committee Action: None
9/11/13 Regular Session Action: Pending

(September 6, 2013)

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: 06
Submitted By: Office of the Mayor
Date: September 6, 2013

Proposed Amendment:

1. Section 6 of Ord 13-11 shall be amended by deleting the words “drivers license number” replacing them with the words “government issued photographic identification number” wherever they appear in Section 6.

Synopsis

This amendment changes the requirement that a pawnshop write down the drivers license number of a customer to writing down the identification number of any government issued photographic identification card. This will allow pawnshops to use military identification cards, state identification cards and passports.

8/28/13 Committee Action: None
9/11/13 Regular Session Action: Pending

(September 6, 2013)

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: 07
Submitted By: Councilmember Granger, District 2
Date: August 28, 2013

Proposed Amendment:

1. Ordinance 13-11 shall be amended by inserting a new Section 32 and renumbering the subsequent sections of the ordinance accordingly. This section makes changes in various chapters of Title 4 (Business Licenses and Regulations) to achieve gender-neutral pronouns.

Miscellaneous Changes to Title 4(Business Licenses and Regulations) Including But Limited to Changes to Chapter 4.18 (Pawnbrokers), Chapter 4.20 (Secondhand Dealers), Chapter 4.22 (Dealers in Valuable Metals) & Chapter 4.24 (Taxicabs)

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.

(Over)

Synopsis

This amendment is sponsored by Councilmember Granger and makes changes that create a gender-neutral ordinance. In other words, errant references to “he” and “his” are changed to “he/or she” and “his/her” wherever they appear in Title 4.

8/28/13 Committee Action: None

9/11/13 Regular Session Action: Pending

September 4, 2013

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: 08
Submitted By: Office of the Mayor
Date: September 6, 2013

Proposed Amendment:

1. Ord 13-11 shall be amended by amending Section 2. Section 2 shall be amended so as to include the following additional language at the end of that section:

“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.”

2. Ord 13-11 shall be amended by amending Section 4 to read as follows:

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
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(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.

3. Ord 13-11 shall be amended by deleting the substance of Section 5 and leaving it blank (in order to preserve subsequent numbering).

4. Ord 13-11 shall be amended by amending Section 14. Section 14 shall be deleted in its entirety and replaced with the following:

SECTION 14. Chapter 4.20 shall be amended to add a new section entitle “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
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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.

5. Ord 13-11 shall be amended by amending Section 15. Section 15 adds a new chapter to Title 4 entitled “Chapter 4.22 Dealers in Valuable Metals”. Section 4.22.020(a) shall be amended so as to include the following additional language at the end that section:

“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.”

6. Ord 13-11 shall be amended by amending Section 25. Section 25 shall be deleted and replaced with the following:

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.

7. Ord 13-11 shall be amended by inserting a new section immediately prior to the severability section, with that section and subsequent sections numbered accordingly, and with that new section reading as follows:

“Section (?). 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.’”

Synopsis

This does two main things. First, it makes the penalty provisions of each the relevant chapters discussed in the Ordinance consistent with one another. Second, it makes it clear when the Controller will issue business license for each of the relevant chapters discussed in the Ordinance.

8/28/13 Committee Action: None

9/11/13 Regular Session Action: Pending

(September 6, 2013)

***** Amendment Form *****

Ordinance #: 13-11
Amendment #: Am 09
Submitted By: Councilmember Volan, District 6
Date: September 10, 2013

Proposed Amendment:

1. Ordinance 13-11 shall be amended by amending Section 6 pertaining to information pawnbrokers must provide for the police department (BMC 4.18.050). Section 6 shall be amended in the following manner:

(a) First, by deleting the second-to-last sentence which begins with the words "Information shall be electronically transferred" and replacing that sentence with the following:

Upon written consent of the customer, information shall also be electronically transferred, within two business days of purchasing 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.

(b) Second, by adding the following to the end of Section 6:

Section 4.18.050 shall be further amended by adding the following as a separate paragraph at the end of that section:

The written consent mentioned above shall consist of the following language:

WAIVER OF ONLINE PRIVACY

"I understand that:

1. Indiana statute requires pawnbrokers and valuable metal dealers to obtain and keep information about persons and articles involved in certain purchases and that this information is then made available for any law-enforcement agency to retrieve without a warrant;

2. the City of Bloomington has extended this duty to gather and provide information to certain secondhand dealers and has also contracted with a third-party organization, which is identified on the City's webpage at (insert the web address provided by the City), to collect the aforementioned information and make it available to all law-enforcement agencies via the Internet; and

3. Indiana statute does NOT require these businesses or their customers to participate in such online aggregation of personal information.

By signing this form I hereby give my explicit consent for this business to report the details of this transaction into an online database. [Name of licensee; Full name and signature of customer]"

2. Ordinance 13-11 shall be amended by amending Section 13 pertaining to information secondhand dealers must provide for the police department (BMC 4.20.060). Section 13 shall be amended in the following manner:

(a) First, by deleting the second-to-last sentence which begins with the words "Information shall be electronically transferred" and replacing that sentence with the following:

Upon written consent of the customer, information shall also be electronically transferred, within two business days of purchasing 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.

(b) Second, by adding the following as a separate paragraph at the end of BMC 4.20.060:

The written consent mentioned above shall consist of the following language:

WAIVER OF ONLINE PRIVACY

"I understand that:

1. Indiana statute requires pawnbrokers and valuable metal dealers to obtain and keep information about persons and articles involved in certain purchases and that this information is then made available for any law-enforcement agency to retrieve without a warrant;

2. the City of Bloomington has extended this duty to gather and provide information to certain secondhand dealers and has also contracted with a third-party organization, which is identified on the City's webpage at (insert the web address provided by the City), to collect the aforementioned information and make it available to all law-enforcement agencies via the Internet; and

3. Indiana statute does NOT require these businesses or their customers to participate in such online aggregation of personal information.

By signing this form I hereby give my explicit consent for this business to report the details of this transaction into an online database. [Name of licensee; Full name and signature of customer]"

3. Ordinance 13-11 shall be amended by amending Section 15 pertaining to a new chapter on Valuable Metal Dealers and, in particular, information valuable metal dealers must provide for the police department (BMC 4.22.050). BMC 4.22.050 shall be amended in the following manner:

(a) First, by deleting the second-to-last sentence which begins with the words "Information shall be electronically transferred" and replacing that sentence with the following:

Upon written consent of the customer, information shall also be electronically transferred, within two business days of purchasing 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.

(b) Second, by adding the following as a separate paragraph at the end of that section:

The written consent mentioned above shall consist of the following language:

WAIVER OF ONLINE PRIVACY

"I understand that:

1. Indiana statute requires pawnbrokers and valuable metal dealers to obtain and keep information about persons and articles involved in certain purchases and that this information is then made available for any law-enforcement agency to retrieve without a warrant;

2. the City of Bloomington has extended this duty to gather and provide information to certain secondhand dealers and has also contracted with a third-party organization, which is identified on the City's webpage at (insert the web address provided by the City), to collect the aforementioned information and make it available to all law-enforcement agencies via the Internet; and

3. Indiana statute does NOT require these businesses or their customers to participate in such online aggregation of personal information.

By signing this form I hereby give my explicit consent for this business to report the details of this transaction into an online database. [Name of licensee; Full name and signature of customer]"

4. Changes made by this amendment shall be reconciled with all amendments to the ordinance passed by the Council.

Synopsis

This amendment is sponsored by Councilmember Volan and changes the requirement that pawnbrokers, secondhand dealers, and dealers in valuable metals electronically transfer information about the articles they purchase to an online database within two business days of purchasing said articles. Under the amendment, that duty would only be required upon written consent of the customer and the language of the written consent would be included in the ordinance.

Except for some additional language for 4.18.050 (pertaining to pawnbrokers), and unless changed by other amendments, here is how the relevant provisions would read (with changes highlighted in bold):

In addition to the records required by this chapter, all licensees under this chapter shall provide information for each article purchased to the City of Bloomington Police Department within two business days of purchasing said article. Such information shall include the name of the person who sold the product to the (licensee) and a description of the articles purchased. **Upon written consent of the customer**, information shall **also** be electronically transferred, within two business days of purchasing 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 a licensee any type of fee.

The written consent mentioned above shall consist of the following language:

WAIVER OF ONLINE PRIVACY

"I understand that:

1. Indiana statute requires pawnbrokers and valuable metal dealers to obtain and keep information about persons and articles involved in certain purchases and that this information is then made available for any law-enforcement agency to retrieve without a warrant;

2. the City of Bloomington has extended this duty to gather and provide information to certain secondhand dealers and has also contracted with a third-party organization, which is identified on the City's webpage at (insert the web address provided by the City), to collect the aforementioned information and make it available to all law-enforcement agencies via the Internet; and

3. Indiana statute does NOT require these businesses or their customers to participate in such online aggregation of personal information.

By signing this form I hereby give my explicit consent for this business to report the details of this transaction into an online database. [Name of licensee; Full name and signature of customer]"

8/28/13 Committee Action: None

9/11/13 Regular Session Action: Pending

September 13, 2013

MEMO:

To: City of Bloomington Common Council
From: Patty Mulvihill, Assistant City Attorney
Date: August 22, 2013
Re: Amendments to Title 4

Ordinance 13-11 seeks to make substantial changes to Title 4 of the Bloomington Municipal Code. Most of the changes involve deleting regulations from the Code which are not currently enforced nor thought to be needed. A comprehensive analysis and review of Title 4 was undertaken by the City's administration and it was noted that very few changes had been made to the Title in the last twenty years—what was needed in the 1980's does not appear to be needed today. A final note is that no changes are being proposed to Chapter 4.16 (Itinerant Merchants) or Chapter 4.26 (Velocabs) in this proposal.

The following Chapters are being proposed for deletion, in their entirety: (1) Chapter 4.04, entitled Business Licenses Generally; (2) Chapter 4.28, entitled Jitneys; and (3) Chapter 4.30, entitled Horse-Drawn Vehicles for Hire.

Chapter 4.18 regulates the business of pawnbrokers in the City. Six substantive changes are being proposed. First, that all pawnbrokers be required to supply the City with copies of their completed application for the State of Indiana's Pawn Broking License and their actual license. **By accepting a copy of their State application the business owner will not have to complete an additional lengthy application prepared by the City.** Second, the penalty provision for violating this Chapter has been reworked to follow the pattern found in other sections and chapters of the municipal code.

The major change to Chapter 4.18 is that all pawn brokers shall be required to transfer information regarding each article pawned or received electronically to the Police Department via a law enforcement website designated by the City's Police Department. The City expects to designate Leads Online. Leads Online is free to the pawn broker business; the City Police Department pays for the service. The Police Department is requesting this change because of the increase in thefts that they have experienced in the last twenty years. Leads Online is a national database that will allow the Police Department to have access to articles pawned all over the country.

Additionally, because the City's administration is cognizant of the potential for an increased administrative burden upon pawn shops as a result of the Leads Online requirement, the administration has proposed deleting any type of fee requirement associated with the necessary license.

Finally, in light of comments received by the administration from the business community the City has proposed two additional changes. First, instead of requiring the pawn stores to collect a person's social security number, the stores will instead be required to collect a person's driver's license number. Second, instead of requiring the pawn store to hold items purchased for ten days, the store will only be required to hold items purchased for seven days.

Chapter 4.20 regulates the business of secondhand dealers in the City. Five substantive changes are being proposed. First, the proposal specifically exempts the following businesses from regulation: clothes, cars, books, watercraft or farm equipment. Additionally, no license is required for estate or garage sales. And in light of concerns raised by members of the community, the administration is proposing that three other types of businesses be specifically exempted: thrift stores, consignment stores, and antique stores/malls. Second, like the pawnbroker license, the license fee is being proposed for deletion as a way to offset any new administrative burdens. Third, all goods purchased by the business shall now be held for 7 days instead of only 24 hours—this will provide the police department more time to determine if an item purchased by the business was stolen. Fourth, just like the pawn broker chapter, the secondhand dealer businesses will be required to use Leads Online. Fifth, again much like the pawn broker license chapter, the penalty section has been rewritten to conform to other sections of the municipal code.

Chapter 4.22 is a new chapter being proposed. This newly created Chapter will regulate those in the business of dealing in valuable metals. Valuable metals are defined in Indiana Code 25-37.5-1-1 as “any product made of metal that readily may be resold ... it includes metal bossies and small component motor vehicle parts. The term does not include a beverage can.” These businesses will be regulated in the same manner as pawn brokers and secondhand dealers—they will not be required to pay an annual licensing fee, they will have the same type of penalty provisions, and they will be required to utilize Leads Online.

Chapter 4.24 regulates the business of operating taxicabs in the City limits. Four substantive changes are being proposed. First, the ordinance currently does not allow vehicles

who can carry more than 6 passengers to be used as taxicabs. Given the use of minivans and larger SUV's, the ordinance is being amended to increase the passenger load to 8. Second, the insurance requirements for taxicabs have been changed to reflect the standards preferred by the City's Risk Management Division. These changes include a requirement that the business maintain a commercial general liability policy in an amount of no less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate and that the City be provided a copy of the relevant policies. Third, instead of the Police Department performing safety inspections of the vehicles, the businesses will be required to obtain their own safety inspections from an independent source instead of from police officers who are not trained mechanics. The City's Economic Development and Sustainability Department has contacted two car repair businesses in Bloomington and learned that the businesses believe they can perform the required safety inspections for between \$20.00 to \$45.00 per vehicle. Finally, the same changes to the penalty provisions made in prior chapters are being proposed to occur in this chapter as well.

The City is in the process of contacting all known businesses that may be impacted by these proposed changes. The contact should occur and have been finalized prior to this ordinance being heard by the Common Council.

Attached to this Memo you will find the proposed Ordinance 13-11. Also included is a version of each Chapter included the Ordinance with notations that fully explain and highlight the changes being proposed.

MEMO:

To: City of Bloomington Common Council
From: Patty Mulvihill, Assistant City Attorney
Date: September 6, 2013
Re: Ordinance 13-11

During the October 28, 2013, City Council meeting several questions and issues were raised regarding proposed Ordinance 13-11. In an effort to address those questions and issues, the City's Administration has prepared this Memorandum. Documents which staff believes will be helpful in better explaining the Administration's answers and positions are attached to this Memorandum.

Taxi Cabs:

Issue: The owner of E2 Taxi asked that the ordinance be amended to clarify that the taxi fee is a fee per vehicle and not per business.

Response: The Administration proposes an amendment, which deletes any fee requirement for a taxicab license. Taxicab companies may experience an increase in their administrative costs with the ordinance's requirement that the companies receive vehicle safety inspections from independent third parties instead of from the Police Department. In recognition of this additional expense the Administration believes it appropriate to eliminate the license fee. *This item is included in the weekly Council Packet as Amendment #1.*

Secondhand Dealers:

Issue 1: One of the owners of Tom Cats Pawn Shop asked that the ordinance be amended to include consignment stores and antique malls in the Secondhand Dealer Chapter because there have been several problems with stolen goods ending up in these locations.

Response 1: The Administration does not believe regulation of consignment stores and antique stores is necessary for three reasons.

- a. First, stolen goods are not regularly sold to consignment stores and antique malls because the payoff is so delayed. When a person sells an item to a consignment store they are only paid when the item in question is purchased; most thieves desire an immediate payment of cash when selling stolen goods.
- b. Second, a review of the Police Department's records and conversations with the Department's lead detectives indicate that an insignificant amount of stolen materials are ever recovered from consignment stores or antique malls.
- c. Third, the fact that pawnshops and scrap metal dealers are so highly and closely regulated at both the State and Federal levels is indicative of the probability that stolen merchandise may end up, through no fault of the business owners, in these businesses; the lack of any such regulations of consignment stores and antique malls at the State and Federal level further solidifies the Police Department's belief that regulation of these businesses is unwarranted.

Issue 2: The owner of Ace Pawn Shop asked that the ordinance be amended so as to specifically exempt Salvation Army and Goodwill.

Response 2: While the ordinance does not specifically list the Salvation Army or Goodwill as exempted businesses, the ordinance does specifically exempt charitable organizations, which applies to both Salvation Army and Goodwill, and further exempts thrift stores, which also applies to both Salvation Army and Goodwill. The Administration does not believe any further specificity is required.

Issue 3: The ordinance currently exempts from regulation under the Secondhand Dealer Chapter those businesses that only occasionally engage in the purchasing of used goods so long as this occasional business does not total more than fifteen percent of the business's purchases in any one year. The owner of Ace Pawn Shop suggested that instead of using percentages as exemption, the ordinance should base the exemption off a dollar amount.

Response 3: The administration agrees that a dollar amount exemption is more appropriate than a percentage amount exemption. To that end the Administration proposes amending the ordinance so that businesses that purchase less than \$5,000 worth of used goods per calendar year are exempt from regulation. The Administration further believes it is appropriate to specifically exempt those businesses that purchase and sell used CDs and LPS. *This item is included in the weekly Council Packet as Amendment #2.*

Pawnshops:

Issue 1: One of the owners of Tom Cats and at least one Council Member asked that the Administration better clarify whether or not the ordinance, in its current form, allows for a pawned item to be picked up by the original owner prior to the expiration of the seven day hold period.

Response 1: Section 4.18.060 states that a “pledger may redeem pawned property at **any time** upon presentation of the pawn ticket and full satisfaction of the loan, interest, and storage fees as provided by Indiana Code [28-7-5](#)”. The ordinance, as written, already allows pawned items to be returned to the person who pawned the item prior to the expiration of the seven-day hold period.

Issue 2: An employee of Tom Cats Pawn Shop indicated that he would prefer that pawned items be exempt from the reporting requirements because pawning items is different than outright selling items and that it is a means for lower income individuals to obtain money.

Response 2: There are two reasons why the Administration believes it is necessary for pawned items to be reported.

- a. First, the detectives who regularly investigate theft crimes indicate that customers of pawnshops regularly receive more money for a pawned item than they do for an outright sale. An example was given wherein a customer who sold a PlayStation 3 to a pawnshop may receive \$50.00 for the sale, but if the gaming device was pawned the customer would instead

receive \$75.00. If the customer is a thief who is ridding him/herself of stolen property then he/she would have no interest in ever collecting the pawned item, thereby it would make more sense for the thief to pawn the item then to sell it outright. The detectives with the Police Department have indicated that a significant amount of the criminals they have contact with are cognizant of the fact that pawning an item as opposed to outright selling it to a pawnshop is a more profitable venture.

- b. Second, by reporting all items sold and pawned by customers, the Police Department is able to review the information to look for patterns of behavior.

Issue 3: One of the owners of Tom Cats asked for a clarification of the current definition of a “pawnbroker” and suggested that the definition be changed so as to eliminate the last few clauses.

Response 3: As a matter of consistency, which slightly modifies the originally proposed definition of “Pawnbroker” in Ordinance 13-11, the Administration proposes to mirror the definition of “Pawnbroker” in Indiana Code [28-7-5](#), which has the following definition: "Pawnbroker" means any person, partnership, association, limited liability company, or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness. *This item is included in the weekly Council Packet as Amendment #3.*

Issue 4: The owner of Ace Pawn Shop indicated that once the Police Department seizes an item from his location, he loses any lien he has on that item. He asked that instead of allowing the Police Department to seize an item believed to be stolen, that the Department instead place a long-term hold on the item.

Response 4: The overall purpose of Ordinance 13-11 is to better assist the victims of property crimes being made whole. If the Police Department is able to locate a person's stolen property at a pawnshop, the Administration believes that property should be returned to its rightful owner as soon as legally permissible. Waiting to return the property to its rightful owner until a criminal case has been resolved could realistically delay the victim's ability to obtain his/her rightful property up to eighteen months. While the Administration is cognizant that by returning the stolen merchandise to its rightful owner the pawnshop is at risk for losing money, the Administration believes the business has inherently acknowledged this as a risk of performing the type of business it performs, whereas the victims of crime have taken made no such affirmative action.

Issue 5: Both pawnshops expressed concerns that by transmitting information to a law enforcement website they would be violating their customers' privacy rights and possibly violating Indiana Code [28-7-5-39](#).

Response 5: Indiana Code [28-7-5-39](#) states, the records created by pawnshops are confidential but subsection (b) states that these records may be obtained by law enforcement officials. This section of the Indiana Code does not prohibit law enforcement

officials from obtaining this information via a law enforcement website like Leads Online. Furthermore, Indiana Code [28-7-5-16](#) (f) contemplates and permits pawnshop owners to utilize third party vendors for the storage of their information.

Valuable Metal Dealers:

Issue 1: The representative for Bloomington Iron and Metal questioned the need to report every purchase made by valuable metal dealers.

Response 1: The Administration has three responses to this statement.

- a. First, when the Administration originally drafted Ordinance 13-11 it did require every purchase made by a valuable metal dealer to be reported. But after conversations with such dealers, the Administration determined that two types of purchases would be excluded. The exclusions include, purchases between scrap metal processing facilities and purchases from a business, provided the consideration is paid directly to the business and not to an individual.
- b. Second, valuable metal theft is a significant problem and growing problem. Thieves steal both small and large quantities of valuable metal. Even minor amounts can add up to a considerable payday for criminals. If every record is not recorded the Police Department's ability to track crime, monitor crime patterns and solve these types of thefts will be greatly reduced.

- c. Third, the requirement that all types of transactions be recorded is consistent with what other cities and towns require of their valuable metal dealers. For example, this type of requirement can be found in the ordinances and statutes that regulate these types of dealers in: State of Kentucky; Madison, Wisconsin; State of Pennsylvania (provided purchase exceeds \$100.00); Columbus, Ohio; Indianapolis, Indiana; Lincoln, Nebraska; State of Minnesota; State of Mississippi; State of Alabama; Houston, Texas; South Bend, Indiana; and Fort Wayne, Indiana. Copies of the ordinances will be made available upon request.

Issue 2: The representatives for both valuable metal dealers in Bloomington questioned the requirement that they hold all items purchased for at least seven days. They indicated that their facilities did not have appropriate storage facilities and that it could cause potential economic harm to their businesses.

Response 2: The Administration has three responses.

- a. First, just because the item stolen may be considered scrap metal does not mean that its rightful owner does not want the metal returned to him or her. Compensating the victim with the value of the scrap metal may not actually be full compensation. The hold period allows the Police Department a minimal amount of time to attempt to locate the stolen property and return it to its rightful owner.
- b. Second, the Administration once again reviewed the Indiana Code regulating Valuable Metal Dealers and determined that it can agree to

reduce the hold period to five days so that the City of Bloomington's hold requirement is consistent with the State's hold requirement, said State requirement is located at Indiana Code 25-37.5-1-4, 5. *This item is included in the weekly Council Packet as Amendment #4.*

- c. Third, holding periods are consistently required by other jurisdictions. For example: State of Indiana; State of Kentucky; Madison, Wisconsin; Lincoln, Nebraska; State of Mississippi; Houston, Texas; South Bend, Indiana; and Fort Wayne, Indiana. Copies of these ordinances will be provided upon request.

Issue 3: The representative for Bloomington Iron and Metal suggested that valuable metal dealers should be treated differently than pawnshops and secondhand dealers because the natures of their businesses are grossly different.

Response 3: While in theory the three businesses differ from one another they share one common factor: all three are highly susceptible to inadvertently receiving stolen property. In some ways, tracking stolen valuable metals is harder than tracking a stolen television; at least the television set has a serial number that can be tracked, while most valuable metals lack any such identification.

Issue 4: The representative for Bloomington Iron and Metal suggested that since valuable metal dealers are already highly regulated at both the State and Federal levels, local regulation is unnecessary and burdensome.

Response 4: The Administration does not deny that valuable metal dealers are already highly regulated. They are highly regulated for a variety of reasons, one of which is the high probability the businesses will unwittingly find themselves in possession of stolen property. Despite all of the State and Federal regulations these entities are not required to transfer their purchase information in an electronic format to police departments in a set amount of time. The reporting requirement of Ordinance 13-11 is what is missing at the State and Federal level and it is this reporting requirement that has been proven in other jurisdictions to greatly increase law enforcements efforts in not only recovering stolen property but in prosecuting criminals.

Issue 5: Council Members requested data and information on valuable metal thefts in the Monroe County area.

Response 5: The Police Department's Records Supervisor was able to pull some information regarding possible valuable metal thefts and two detectives were able to provide additional information.

- a. In the last two years the Bloomington Police Department and the Monroe County Sheriff's Department have received at least 498 complaints of potential valuable metal thefts.
- b. Of these thefts, the detectives report that most of the stolen goods are never recovered.
- c. Detectives report that stolen items are recovered from valuable metal dealers, that the local dealers can be cooperative, but that at times,

suspicious activities and sales have been conducted with no reports being made to local law enforcement.

Issue 6: The representative for Bloomington Iron and Metal suggested that instead of the mandatory reporting required by Ordinance 13-11 it would be more prudent to require the utilization of www.scraptheftalert.com.

Response 6: Detectives at the Police Department reviewed the aforementioned website and believe it will have no effect on their ability to solve crimes. The website is a website where victims of theft can report missing items. It is not a reporting mechanism for valuable metal dealers. In the last twelve months only 2 incidents have been placed on this website for the entire jurisdiction. Leads Online has a proven history of increasing the likelihood that victims recover their stolen items and that police officers solve theft crimes.

Leads Online:

Issue 1: Council Member Rollo asked if the Administration could provide any statistics on Leads Online's usefulness in solving overall theft crimes.

Response 1: The Administration spoke with Leads Online regarding this matter and unfortunately the company does not have any such statistics.

Issue 2: Council Members asked if Leads Online would be able to attend the September 11, 2013, council meeting.

Response 2: Because of the late notice and the fact that the company is based in Texas, a representative from the company is not able to attend the meeting. However, the company quickly answered all questions posed to administrative staff.

Issue 3: Council Member Neher inquired as to the privacy standards and protections put in place by Leads Online to ensure that confidential information remains confidential.

Response 3: Generally speaking Leads Online has strict privacy standards and uses high level protection devices to maintain its security.

- a. Leads Online uses a 128 bit encrypted site and uses the same time security features used by financial and medical institutions.
- b. The company regularly hires other companies to attempt to hack into their data servers to ensure that that the proper controls are in place, and to date no such hacks have been effective.
- c. There has been no breach of security at Leads Online in the last ten years.
- d. The company provided a summary of their security standards for review by this Council. *The Security Overview is attached as Exhibit A.*
- e. Furthermore, despite claims to the contrary, Leads Online does not sell any of the information it maintains to third parties; the only entities that have the ability to access the data are law enforcement agencies.
- f. Leads Online indicated that they have not been sued in any State, particularly in Florida and Texas, as alleged during public comment. A review of Westlaw, a legal database that allows attorneys to read cases filed in

jurisdictions across the country, did not reveal any lawsuits wherein Leads Online was a named party.

g. Finally, all data transferred to Leads Online is stored indefinitely, it is not destroyed.

Issue 4: Council Members asked about the BIM representative's claim that Leads Online is a vendor-driven program wherein the company specifically solicited the Police Department.

Response 4: Leads Online did not solicit the Police Department's business. The Department has been aware of Leads Online for several years. Leads Online does attend police seminars and conferences but no representative made direct contact with the local Department.

Issue 5: Council Members asked if the City had a contract with Leads Online.

Response 5: Yes, the City does have a contract with Leads Online. With the addition of valuable metal dealers reporting, this contract will need to be amended.

Issue 6: Some members of the public questioned whether or not the data transferred to Leads Online would become a public record.

Response 6: Under the current ordinance the pawnshops and secondhand dealers are to provide the Police Department with information regarding items purchased and pawned. All of this information, minus information considered confidential by State law (for example, social security numbers), is already a public record and subject to

request and review by any person who files a request for public records. If the information is transferred to a law enforcement website like, Leads Online, the information would only be subject to the Indiana public records law if the Police Department downloaded the information and created a record of the information. Leads Online itself is not subject to the public records laws.

Issue 7: Council Member Volan specifically asked for examples of where Leads Online was effective in solving crimes associated with valuable metal thefts.

Response 7: Leads Online provided seven examples of where it was used to solve crimes associated with valuable metal thefts. These are only examples and are not meant to be exhaustive of the number of times it has assisted in successfully solving these types of crimes. *Examples are attached as Exhibit B.*

Issue 8: Tom Cats indicated that a law professor had provided an opinion wherein it was alleged that the utilization of Leads Online was problematic under various federal laws (particularly the Gramm-Leach-Bliley Act) and the Constitution.

Response 8: The Gramm-Leach-Bliley Act exempts investigations by local law enforcement agencies and further permits said agencies to utilize agents. Leads Online would be the authorized agent of the Bloomington Police Department, transferring information to said agent would not violate this federal regulation. Furthermore, the case cited by Tom Cats does not appear to be germane to the proposal at hand, it deals with drug interdiction check points. Courts such as the United States District Court for the Southern District of New York, the Michigan Court of

Appeals, and the United States District Court for the Northern District of Georgia have all held that pawnshops are closely regulated industries with no reasonable expectation of privacy such that the reporting to and inspection of their transaction records by local law enforcement are permissible under the Constitution.

General Reporting:

Issue 1: At least one Council Member wondered if it would be possible for the ordinance to require reporting of only certain items the Police Department feels are items, which are frequently stolen instead of requiring specific types of business to report.

Response 1: There are at least two problems with this approach from the Administration's perspective.

- a. First, listing items instead of businesses would require businesses where stolen goods are rarely, if ever, found to be licensed and to report their purchases. For example, jewelry is an item that is obviously regularly stolen. Consignment stores and thrift stores regularly purchase and sell jewelry; but stolen jewelry is rarely, if ever, located at a consignment store or thrift store. If we listed jewelry, the consignment store would have to be licensed and to conform to the reporting requirements, even though it is unlikely they would ever inadvertently be in the possession of stolen goods.
- b. Second, it is hard to determine or predict what will be considered valuable.

For example, twenty years ago, CDs were regularly stolen and sold to different types of businesses. Today, CD theft isn't particularly problematic.

Issue 2: Both pawnshop owners question the need to report their transactions to a third party instead of reporting the transactions directly to the Bloomington Police Department.

Response 2: There are two reasons why the information needs to be reported to a third party instead of directly to the Police Department.

- a. The first reason is because it will be more efficient for police officers. Right now the pawnshops provide the police department with information regarding their transactions once a week, and the information is transmitted to them via a disk or paper copies. There is no way to collate this data. Instead, detectives have to read each transaction and try to remember if it is consistent with an item reported stolen. By having the businesses report their transactions to Leads Online this searching for a needle in a haystack ends. The computer does all of the collating for the detectives; instead of detectives spending hours trying to assimilate all of the information, Leads Online will assimilate the information almost instantaneously.
- b. Second, because Leads Online is a national database, it will allow law enforcement agencies across the country to better recovery stolen merchandise. During the first Council meeting a story was provided

wherein it was noted that 3 Rolex watches stolen in Greenwood were located in a Florida pawnshop because of Leads Online.

Issue 3: One of the pawnshops questioned why anything other than a description of the item purchased or pawned needed to be submitted to Leads Online—they wondered why personal information regarding the seller also needed to be reported.

Response 3: Information regarding the seller needs to be submitted for two reasons.

- a. First, by having the name and information of the seller available immediately, the police agencies will not have to then contact the businesses to obtain that information once they locate stolen goods. Instead, the police department can begin immediately trying to locate the seller.
- b. Second, by having the name and information of the sellers available, police departments will be better able to follow crime patterns and track criminals. For example, Leads Online was able to identify a person who has been selling fake jewelry across various states in the Midwest—this person conducted 179 transactions since January 1, 2012, in twenty different states. If his name and information had not been transmitted to Leads Online, this pattern may never have been discovered.

Issue 4: Concerns were raised by members of the public that reporting requirements such as those being proposed may cause the affected businesses to relocate to areas outside of the City limits if those areas did not contain similar ordinances.

Response 4: The Town of Ellettsville expects to introduce legislation, which mirrors the proposed Ordinance 13-11 in key aspects, either this coming Monday or two weeks from Monday. In the past, the Monroe County Sheriff's Department has indicated a willingness to adopt ordinances regulating pawnshops and secondhand dealers upon the City's adoption of the same.

Issue 5: Multiple business owners indicated that the forty-eight hour reporting requirement was too cumbersome and would instead prefer that the reports be required to be made within two business days.

Response 5: The Administration has reviewed the concerns of the relevant businesses and the needs of the Police Department and believes that modifying the ordinance to require reporting within two business days is appropriate. *This item is included in the weekly Council Packet as Amendment #5.* The Administration would note, however, that reporting requirements of less than two business days are common throughout other jurisdictions: State of Kentucky (24 hours); Madison, Wisconsin (48 hours); Columbus, Ohio (by noon of each business day); State of Alabama (by close of business on date of transaction); Houston, Texas (daily); South Bend, Indiana (24 hours); and Fort Wayne, Indiana (24 hours). Copies of the ordinance will be provided upon request.

Issue 6: Council Members were curious as to how the reporting requirements would affect the Police Department.

Response 6: The Police Department will be much more efficient in the use of its detectives' time. If more work is created the type of work created will deal more with prosecuting thieves instead of trying to locate the thieves.

Miscellaneous Issues:

Issue 1: Council Members and business owners asked if instead of requiring a driver's license from a seller if any form of governmental identification containing a picture could be used.

Response 1: The Administration believes it is appropriate to modify the ordinance to make it clear that a driver's license, a passport, a military identification card or any other lawfully issued governmental identification with a picture can be utilized by a seller. *This item is included in the weekly Council Packet as Amendment #6.*

Issue 2: Council Member Neher asked for an explanation of how State and local ordinances covering the issues in Ordinance 13-11 interact with one another.

Response 2: The State of Indiana has statutes, which regulate pawnshops and valuable metal dealers; there are not state statutes, which regulate the business of secondhand dealers (although they are subject to some tax and financial restrictions). Generally speaking the requirements placed upon pawnshops and valuable metal dealers by local units of government add to the State's requirements—these additions usually include specific reporting requirements, specific hold requirements, licensing fees, and specific penalty provisions for violating the local regulation.

Issue 3: Council Member Granger requested that Ordinance 13-11 be made gender neutral.

Response 3: The Administration is in full agreement with request and understands that Council Attorney Dan Sherman has prepared an amendment at Council Member Granger's request, an amendment that is supported by the Administration. *This item is included in the weekly Council Packet as Amendment #7.*

Issue 4: Council Attorney Dan Sherman wanted to ensure consistency with the provisions of the different Chapters of this Ordinance.

Response 4: The Administration has reviewed the proposed Ordinance and determined that the following changes should be made to ensure consistency throughout the different chapters.

- a. Change the title of 4.20.070 (Secondhand Dealers) to "Penalties—Revocation of License";
- b. Reformat the penalty section of 4.20.070 so that it mirrors the format of other chapters;
- c. Add language about when the Controller issues a license to Chapters 4.18 (Pawnbroker); 4.22 (Valuable Metal Dealer); and 4.24 (Taxicabs) for consistency with Chapter 4.20 (Secondhand Dealers).
- d. *These items are included in the weekly Council Packet as Amendment #8.*

LeadsOnline

Catching crooks and cooks since 2000

15660 North Dallas Parkway, Suite 800, Dallas, Texas 75248 TF 800.311.2656 T 972.361.0900 F 972.361.0901

LeadsOnline System Security Overview and Safeguard Compliance Policy

The LeadsOnline System has been implemented with strict attention to International Standards Organization (ISO) 27002 security requirements. ISO/IEC 27002 provides best practice recommendations on information security management for use by those responsible for initiating, implementing or maintaining Information Security Management Systems (ISMS). LeadsOnline recently submitted to an ISO 27002 security audit performed by KPMG, one of the largest and most respected professional services firms in the world. This audit measured LeadsOnline against the current best practices for IT security.

Key elements of the LeadsOnline Security Program include:

SAS-70 Data Center. LeadsOnline is housed in SAS-70 Type II compliant data center used by government agencies and financial and medical institutions. This means using LeadsOnline requires no equipment, man power, or IT from your agency. We provide a higher level of redundancy, availability and security than many agencies can provide on their own.

Vulnerability Testing. LeadsOnline has engaged an industry-leading, third party web vulnerability testing provider. These ongoing assessments assure that our web application is protected from the most intrusive hacking attempts.

Physical, Technical and Administrative Safeguards. Sections 6801 and 6805 of the Gramm-Leach-Bliley Act (GLBA) require financial institutions including small loan providers, as well as companies processing personal information covered by GLBA to implement administrative, technical, and physical safeguards. These safeguards are designed to insure the security and confidentiality of information covered under GLBA, to protect against any anticipated threats or hazards, to protect against unauthorized access to such records, and to protect against unauthorized use of such records.

LeadsOnline is fully compliant with the Safeguard Policies of the financial institutions it serves. Components of the LeadsOnline Safeguards Compliance Policy are presented below:

Transmission of Data. LeadsOnline provides the ability for financial institutions to efficiently and systematically transfer data to the LeadsOnline system in a secure manner. Data import programs are non-invasive. LeadsOnline does not install software or hardware at the client location, and the creation of an export file is performed by client personnel.

Data is transmitted via 128-bit encryption. This security model represents the industry standard of protection against the interception and unauthorized use of consumer financial data.

Storage of Data. LeadsOnline utilizes a globally recognized SAS-70 compliant data center within the Continental United States to house consumer financial data covered under GLBA. Advanced physical access controls are in place to limit access to named individuals who maintain the system. In addition, complex firewall systems are in place to prevent unauthorized electronic access.

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EXHIBIT

A

LeadsOnline

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Protections Against Misuse of Private Consumer Information. LeadsOnline does not sell consumer financial information, or permit the use of this information by any party other than the official agencies for which it has been designated as an Agent as described above.

The system operates as an electronic means of gathering investigative information in criminal cases, much like the process law enforcement investigators use every day when talking with business owners regarding commercial activity by customers who may be involved in a crime. LeadsOnline does not permit access to private consumer financial information for purposes other than those specified in GLBA.

Protections Against Unauthorized Access. Contractual and systematic safeguards are in place to prevent unauthorized users from gaining access to data covered by the GLBA. LeadsOnline staff with authorized access to private information includes only those persons necessary to operate and maintain the system. All such employees are subject to background check and are bound by individual confidentiality agreements. Law enforcement users are verified through third party resources and personal contact by LeadsOnline staff before secure password access is granted. All authorized users who access the system do so under the terms of a User Agreement.

A secure server environment protects the LeadsOnline website, and data retrieved by authorized users is encrypted to prevent unauthorized interception and interpretation. Unauthorized system access is prevented through a unique user authentication process and industry standard access controls.

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Police recover \$28,000 in railroad equipment stolen from major railroad company

"I received a call from a local Railroad Police Agent after he received a tip that one of the employees was selling railroad property here in Fort Wayne. This employee, who is based in Pennsylvania, loaded his work truck up with A LOT of extra equipment prior to coming to Northern Indiana as part of a work crew. When it was all said and done, I was able to locate and recover nearly \$28,000 in equipment -- base radio's, complete security camera systems, battery units for crossing signals....the list goes on and on. Needless to say, the railroad company was very happy to get their property and equipment back, and it was all done with ONE search in Leads."

Det. Joseph Lyon
Fort Wayne Police Department
Indiana

Nearly 6,000 lbs of metal illegally scrapped by employee

"A local business came to us on Jan. 18, 2012 about the suspected activity of internal metal theft. I used the LeadsOnline database to check area pawn shops and scrap yards. I was able to identify that the suspect who worked for the business was the same person who had been making frequent trips to the Indianapolis scrap yards and was scrapping several hundred pounds of metal every few days. The first documented activity started on Nov. 7, 2011, and the last reported transaction was on Jan. 11, 2012. In all, there were 13 transactions documented. When shown the LeadsOnline documentation, the suspect confessed to taking the scrap metal without authorization and scrapping it at an Indianapolis scrap yard. All total, there was 5,668lbs of metal, 47lbs of brass, 193lbs of lead, and 70lbs of other metal; for a grand total weight of 5,978lbs. Criminal charges are being filed."

Cpl. Jeff Klayer, Detective
Brownsburg Police Department
Indiana

EXHIBIT

B

tabbles

Police solve homicide of scrap metal recycler because he reported to electronic transactions to law enforcement via LeadsOnline

"We began investigating a homicide case in which the victim, Jack Markowitz, was the buyer and seller of catalytic converters and also reported to LeadsOnline. The victim was found dead inside his burning vehicle on Hwy 57 in Gautier, Mississippi. With little to go on, Investigators soon began piecing together the puzzle. Witnesses who passed by the area described to police a black dodge pickup truck with a metal cage on the back that was seen parked next to the victim prior to the crime. Investigators began using LeadsOnline to run inquiries on each person that the victim recently did business with since he was a reporting dealer. During this search, investigators ran the name Steven Brown who was supposed to meet the victim earlier in the day. What investigators discovered, cracked the case wide open. A recent transaction of catalytic converters between Steven Brown and the victim showed a photograph of the catalytic converters, as well as the back of Brown's black dodge truck and metal cage. Using this information from LeadsOnline helped investigators solve their homicide case in less than eight hours and resulted in a charge of capital murder against Steven Brown. LeadsOnline has been an invaluable tool for the Gautier Police Department, allowing us to solve countless property crimes. In this case, LeadsOnline helped a reporting scrap metal dealer lead police to the criminal who took his life. We look forward to continued service with LeadsOnline."

Detective Jonathan Whitfield
Gautier Police Department
Mississippi

LeadsOnline scrap metal reporting and investigations system is working in Ohio

"An electrical company in the city of Worthington, Ohio had two of their vans broken into. Tools as well as copper wire were taken. Within minutes of the case being assigned to a detective for follow up a suspect was identified using LeadsOnline. The owner of the business met with detectives at the pawn shop where the suspect sold the tools, and positively identified them as belonging to his company. This same suspect sold copper wire for scrap to a local scrap/salvage yard at the same time. There were NO leads in this case and without LeadsOnline their case would have been closed with no arrest made!"

Det. Keith Agin
Worthington Police Department
Ohio

Copper stolen from a church. More than 20 cases solved in Ohio scrap yards with one LeadsOnline search.

"LeadsOnline has once again proven itself to be one of the most useful tools in my investigational arsenal! We received two reports of copper downspouts being stolen from a local church and a residence. After looking at the information available I went to LeadsOnline and searched for more than 100 pounds of copper being scrapped. Within a span of minutes I had a number of results, one of which contained a person of interest tag from Bexley Police, another local agency. With the information provided by their detective I was able to link the cases together and had good suspects for the crime. Less than a week later the two suspects had surrendered and I was able to obtain confessions showing that the two had been responsible for almost 2 dozen thefts of copper from the Columbus area! The most impressive part of the whole story is that the person of interest tag had only been put on my suspect a few hours before I did my search. Thanks to the information sharing system attached to LeadsOnline I got the break I needed in a case that could have otherwise gone unsolved. Thanks again LeadsOnline!"

Sgt. Stephen Mette
Worthington Police Department
Ohio

Fool me once? Nope. You can't fool me even once with LeadsOnline in my corner

"A suspect was scrapping an odd amount of copper with peculiar frequency and regularity. We had discovered, using LeadsOnline, that the crook had been scrapping various copper and brass products over a six month time period. We were able to determine that the subject had stolen \$180,000 worth of scrap metal from his employer. After his arrest, he was released on bond, but his criminal activity continued. After being contacted in reference to a burglary, I was able to locate the same suspect pawning his ex-wife's \$6,000 ring set after breaking into her home and stealing the items. Once again, LeadsOnline directed us to the ring set where police confiscated the item. He was once again arrested. Thanks LeadsOnline! Scoreboard: Copper Thief – 0 points, Detective Moore and LeadsOnline – 2 points."

Det. Brad Moore
Georgetown Police Department
Kentucky