

AN ORDINANCE REPEALING AND REPLACING
CHAPTER 115: PRECIOUS METALS AND STONES OF
THE CITY OF FORT WAYNE, INDIANA CODE OF
ORDINANCES

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF FORT WAYNE;

SECTION. That CHAPTER 115: PRECIOUS METALS AND STONES of the
City of Fort Wayne, Indiana Code of Ordinances is hereby repealed and replaced as
follows:

**CHAPTER 115: VALUABLE METALS, PRECIOUS METALS AND STONES,
PAWN SHOPS, SECOND HAND STORES**

Section

Valuable Metals

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25 **VALUABLE METALS**

26 **§ 115.01 DEFINITIONS.**

27 For the purpose of this subchapter, the following definitions shall apply unless the
28 context clearly indicates or requires a different meaning:

1 **PERSON.** Any individual, firm, corporation or partnership.

2 **VALUABLE METAL.** Copper, lead, titanium, stainless steel, copper alloy or brass,
3 formed as a bar, cable, rod, tubing, wire, wire scrap, clamp, connector, bushing or
4 bearing or other appurtenances utilized or that can be utilized by persons, firms,
5 corporations or municipal corporations engaged in either the generation, transmission or
6 distribution of electric energy, in telephone, telegraph or other communications, or by
7 railroads; or any copper, copper alloy or brass, or aluminum materials utilized for the
8 purpose of plumbing, storm doors and windows, siding, or gutters of building structures
9 or automotive parts.

10 **VALUABLE METAL DEALER.** Any person engaged in the business of purchasing
11 and reselling valuable metal either at a permanently established place of business or in
12 connection with a business of an itinerant nature, including junk shops, junkyards, junk
13 stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or
14 dealers in junk and junk cars or trucks, or the seller of any valuable metals originating
15 from a building structure.

16 (Ord. G-3-15, passed 4-14-15)

17 **§ 115.02 LICENSE REQUIRED.**

18 No person shall engage in the business of a valuable metal dealer in the city without
19 complying with this subchapter and obtaining a license therefor.

20 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

21 **§ 115.03 APPLICATION FOR LICENSE.**

22 Application for such license shall be filed with the Fort Wayne Police Department. The
23 application shall be on forms furnished by the Chief of Police or his/her agent and shall
24 contain the following information:

25 (A) Name and address of the applicant;

26 (B) The street address of the building in which that person intends to carry out the
27 business of a valuable metal dealer;
28

1 (C) The business's telephone number.

2 (Ord. G-3-15, passed 4-14-15)

3 **§ 115.04 INVESTIGATION OF APPLICANT.**

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5 Upon receipt of each application, the Fort Wayne Police Department shall conduct a
6 background investigation into the business and moral character of the applicant. If upon
7 investigation, the applicant's character is found to be unsatisfactory, no license shall be
8 issued.

9 (Ord. G-3-15, passed 4-14-15)

10 **§ 115.05 LICENSE FEE; ISSUANCE.**

11 Every applicant for a valuable metal dealer's license shall pay a non-refundable annual
12 license fee of \$10. The license shall expire on December 31 of the year in which the
13 license shall be issued. No reduction shall be made for any part of the year elapsed at the
14 time of making such application for such license.

15 (Ord. G-3-15, passed 4-14-15)

16 **§ 115.06 SEPARATE LICENSE FOR EACH ESTABLISHMENT; CHANGE**
17 **OF LOCATION.**

18 A separate license shall be obtained for each location at which a person conducts the
19 business of a valuable metal dealer. If the holder of a license of a valuable metal
20 dealership wishes to change the location of the operation of that person's business, that
21 person shall make written notification for a transfer of location to the Fort Wayne Police
22 Department, which notification shall contain the new business address and business
23 telephone number of the person.

24 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

25 **§ 115.07 REVOCATION OR SUSPENSION; HEARING.**

26 (A) Any license issued under this subchapter may be revoked or suspended by the
27 Chief of Police or his/her agent by reason of a violation of any of the provisions of this
28 subchapter.

1 (B) When a hearing is set by the Chief of Police or his/her agent in a revocation or
2 suspension procedure, the licensee shall receive not less than 20 days written notice,
3 which notice shall contain charges made, as well as the time and place when the hearing
4 will be held.

5 (C) At a hearing conducted pursuant to this subchapter, the licensee shall have the
6 right to be represented by counsel, to present witnesses, to testify and cross-examine any
7 other witnesses and to subpoena witnesses. Proceedings shall be conducted under oath.

8 (D) The Chief of Police or his/her agent shall preside at the hearing and shall make
9 the final determination.

10 (E) If any decision adverse to the licensee is made by the Chief of Police or his/her
11 agent after a hearing as provided above, the Chief of Police or his/her agent shall provide
12 the licensee with a written reason for such decision, as well as a notice of the licensee's
13 right to appeal to the courts of the state.

14 (Ord. G-3-15, passed 4-14-15)

15 **§ 115.08 RECORDS OF PURCHASES.**

16 Except as provided in § 115.12, every person licensed as a valuable metal dealer shall
17 keep and preserve data on or through an electronic or computer data system information
18 which shall be transmitted on a daily basis for the preceding 24-hour period of operation,
19 via electronic forms of transmission, to the Fort Wayne Police Department using the
20 Records Management System being used by the Fort Wayne Police Department to record
21 the following information:

22 (A) The date and time of each purchase.

23 (B) An accurate account and description of the valuable metal purchased, including
24 the weight and whether it consists of bar, cable, rod, tubing, wire, wire scrap, clamp,
25 connector or other appurtenances or some combination thereof; or the type of building
26 material purchased.

27 (C) The price paid for the valuable metal.

1 (D) The dealer shall further require the seller be properly identified with one
2 verifiable piece of current identification that shows name, address, sex, race and date of
3 birth, which shall be government issued photographic identification.

4 (E) All information required by the Fort Wayne Police Department to be preserved on
5 electronic or computer data system shall be open at all times during the business hours to
6 the inspection of the Chief of Police or his/her agent to examine such records. Such
7 electronic information shall be retained on the business premises of the valuable metal
8 dealer for a period of one year from date of purchase.

9 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

10 **§ 115.09 CHIEF OF POLICE REQUIRED TO PROVIDE LIST OF STOLEN**
11 **GOODS.**

12 The Chief of Police or his/her agent shall, at their discretion, provide a list ("hot sheet")
13 of stolen goods containing valuable metals, to all valuable metal dealers.

14 (Ord. G-3-15, passed 4-14-15)

15 **§ 115.10 UNLAWFUL PURCHASES.**

16 A valuable metals dealer may not purchase valuable metals:

17 (A) From an individual less than 18 years of age;

18 (B) That the precious metal dealer believes or should have reason to believe is stolen
19 property acquired as a result of a crime; or

20 (C) From an individual who appears to be or is intoxicated.

21 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

22 **§ 115.11 RETENTION BEFORE SALE OR DISPOSITION.**

23 All goods or articles containing valuable metal purchased or received by any
24 proprietor, manager or employee of any licensed valuable metal dealer, shall be retained
25 at the place of business of the licensed dealer, by the proprietor, manager, or employee
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1 for a period of not less than 36 hours after its receipt before any such goods or articles
2 may be disposed of or sold.

3 (Ord. G-3-15, passed 4-14-15)

4 **§ 115.12 EXCEPTIONS.**

5 This subchapter does not apply to purchases from persons, firms or corporations
6 regularly engaged in the business of manufacturing valuable metals, the business of
7 selling valuable metals at retail or wholesale, to the purchase of one dealer from another
8 or the purchase from persons, firms or corporations engaged in either the generation,
9 transmission or distribution of electric energy or in telephone, telegraph and other
10 communications.

11 (Ord. G-3-15, passed 4-14-15)

12 **PRECIOUS METALS AND STONES**

13 **§ 115.25 DEFINITIONS.**

14 For the purpose of this subchapter, the following definitions shall apply unless the
15 context clearly indicates or requires a different meaning.

16 **PERSON.** Any individual, firm, corporation or partnership.

17 **PRECIOUS METALS or STONES.** Any items combining precious metals, including
18 but not limited to silver, gold and platinum; or containing gems including, but not limited
19 to, diamonds, rubies or emeralds.

20 **PRECIOUS METALS or STONES DEALER.** Any person engaged in the business of
21 purchasing and reselling valuable items containing precious metals or stones, either at a
22 permanently established place of business or in connection with a business of an itinerant
23 nature, including junk shops, junk stores, antique dealers, secondhand stores or flea
24 markets.

25 (Ord. G-3-15, passed 4-14-15)

1 **§ 115.26 LICENSE REQUIRED.**

2 (A) No person shall engage in the business of precious metals or stones dealer in the
3 city without complying with this subchapter and obtaining a license therefor.

4 (B) In the event several precious metals or stones dealers are located at a coin or
5 antique show which is ten days or fewer of duration, only the organizer/manager of the
6 coin or antique show shall be required to purchase a license. However, if the antique
7 show or coin show has duration in excess of ten days, each precious stones or metals
8 dealer at the show shall be required to purchase a separate license.

9 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

10 **§ 115.27 APPLICATION FOR LICENSE.**

11 Application for such license shall be filed with the Chief of Police or his/her agent. The
12 application shall be on forms furnished by the Chief of Police or his/her agent and shall
13 contain the following information:

14 (A) Name and address of the applicant;

15 (B) The street address of the building in which that person intends to carry out the
16 business of a precious metals or stones dealer;

17 (C) The business's telephone number.

18 (Ord. G-3-15, passed 4-14-15)

19 **§ 115.28 INVESTIGATION OF APPLICANT.**

20 Upon receipt of each application, the Fort Wayne Police Department shall conduct a
21 background investigation into the business and moral character of the applicant. If upon
22 investigation, the applicant's character is found to be unsatisfactory, no license shall be
23 issued.
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25 (Ord. G-3-15, passed 4-14-15)
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1 **§ 115.29 LICENSE FEE; ISSUANCE.**

2 Every applicant for a precious metals or stones dealer's license shall pay a
3 nonrefundable annual license fee in the sum of \$10. The license shall expire on
4 December 31 of the year in which the license shall be issued. No reduction shall be made
5 for any part of the year elapsed at the time of making such application for such license.

6 (Ord. G-3-15, passed 4-14-15)

7 **§ 115.30 SEPARATE LICENSE FOR EACH ESTABLISHMENT; CHANGE**
8 **OF LOCATION.**

9 A separate license shall be obtained for each location at which a person conducts the
10 business of a precious metals or stones dealer. In the case of a flea market only one
11 license need be obtained for the whole flea market, and not for each participant at such
12 flea market. If the holder of a license of a precious metals or stones dealership wishes to
13 change the location of the operation of that person's business, that person shall make
14 written notification for a transfer of location to the Chief of Police or his/her agent, which
15 notification shall contain the new business's address and business telephone number of
16 the person.

17 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

18 **§ 115.31 REVOCATION OR SUSPENSION; HEARING.**

19 (A) Any license issued under this subchapter may be revoked or suspended by the
20 Chief of Police or his/her agent by reason of a violation of any of the provisions of this
21 subchapter.

22 (B) When a hearing is set by the Chief of Police or his/her agent in a revocation or
23 suspension procedure, the licensee shall receive not less than 20 days written notice,
24 which notice shall contain charges made, as well as the time and place when the hearing
25 will be held.

26 (C) At a hearing conducted pursuant to this subchapter, the licensee shall have the
27 right to be represented by counsel, to present witnesses, to testify and cross-examine any
28 other witnesses and to subpoena witnesses. Proceedings shall be conducted under oath.

1 (D) The Chief of Police or his/her agent shall preside at the hearing and shall make
2 the final determination.

3 (E) If any decision adverse to the licensee is made by the Chief of Police or his/her
4 agent after a hearing as provided above, the Chief of Police or his/her agent shall provide
5 the licensee with a written reason for such decision, as well as a notice of the licensee's
6 right to appeal to the courts of the state.

7 (Ord. G-3-15, passed 4-14-15)

8 **§ 115.32 RECORDS OF PURCHASES.**

9
10 Except as provided in § 115.36, every person licensed as a precious metals or stones
11 dealer shall keep and preserve data on or through an electronic or computer data system
12 information which shall be transmitted on a dairy basis for the preceding 24-hour period
13 of operation, via electronic forms of transmission, to the Fort Wayne Police Department
14 using the Records Management System being used by the Fort Wayne Police Department
to record the following information for each purchase of precious metals and stones:

15 (A) The date and time of each purchase.

16 (B) An accurate account and description of the precious metals or stones purchased
17 including the weight and type of item purchased.

18 (C) The price paid for the item containing precious metals or stones.

19
20 (D) The dealers shall further require the seller be properly identified with one
21 verifiable current government issued photographic identification. The dealer shall make a
22 legible photographic copy of such identification and shall retain such photographic copy
23 on the dealer's business premises for a period of one year from the date of purchase and
shall be available to the Fort Wayne Police Department upon request.

24 (E) All information required by the Fort Wayne Police Department to be preserved on
25 electronic or computer data system, shall be open at all times during the business hours to
26 the inspection of the Chief of Police or his/her agent to examine such records. Such
27 electronic information shall be retained on the business premises for the precious metals
28 or stones dealer for a period of one year from the date of purchase.

1 (F) In addition to obtaining, recording and preserving the information described in
2 divisions (A) through (D), the dealer shall photograph the precious metals or stones
3 purchased which photograph shall be of clear resolution and preserved on the business
4 premises of dealer for a period of one year from the date of purchase and shall be made
5 available to the Chief of Police or his/her agent authorized to receive such picture.

6 (Ord. G-3 15, passed 4-14-15) Penalty, see § 115.99

7 **§ 115.33 CHIEF OF POLICE REQUIRED TO PROVIDE LIST OF STOLEN**
8 **GOODS.**

9 The Chief of Police or his/her agent shall, at their discretion, provide a list ("hot sheet")
10 of stolen goods containing precious metals or stones, to all precious metal or stone
11 dealers.

12 (Ord. G-3-15, passed 4-14-15)

13 **§ 115.34 UNLAWFUL PURCHASES.**

14 A precious metals or stones dealer may not purchase precious metals or stones:

15 (A) From an individual less than 18 years of age;

16 (B) That the precious metal dealer believes or should have reason to believe is stolen
17 property acquired as a result of a crime; or

18 (C) From an individual who appears to be or is intoxicated.

19 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

20 **§ 115.35 RETENTION BEFORE SALE OR DISPOSITION.**

21 All goods or articles containing precious metals or stones purchased or received by any
22 proprietor, manager or employee of any licensed precious metals or stones dealer, shall
23 be retained at the place of business of the licensed dealer, by the proprietor, manager or
24 employee for a period of not less than five business days after its receipt before any such
25 goods or articles may be disposed of or sold.

26 (Ord. G-3-15, passed 4-14-15) Penalty, see § 115.99

[illegible]

(Ord. G-3-15, passed 4-14-15)

§ 115.50 DEFINITIONS.

For the purpose of this article the following terms shall mean:

(d) *Person*: Person means an individual, a firm, an association, a limited liability company, a partnership, a joint stock association, a trust, or a corporation or any other entity capable of suing or being sued.

§ 115.51 RETENTION OF ACQUIRED PERSONAL PROPERTY.

All personal property received by a Pawn Shop Dealer under this article shall be held intact by the licensee for at least seven (7) business days after the licensee has mailed a copy of the record required to be maintained under state law, which details the item of personal property received, to the local law enforcement agency having jurisdiction over the location of his place of business. Whenever any licensee receives written notice, either from the local law enforcement agency or from an individual, that someone is maintaining a claim of right to possession of the personal property adverse to the licensee, the licensee shall keep the personal property in his possession for thirty (30) days or turn it over to the local law enforcement agency if so required by the local law enforcement agency. Once notice of an adverse claim to the article has been given under this section, the article shall be held for thirty (30) days, during which legal proceedings may be commenced to determine who is entitled to the property. If the matter is not settled or legal proceedings have not been commenced within thirty (30) days, the property shall be returned to the pawnbroker by the Fort Wayne Police Department if held by them.

§ 115.52 RECORDS OF PAWN, PURCHASES, SALES AND EXCHANGES.

(A) Pawn shop dealers shall submit to the Fort Wayne Police Department each business day, all required data set forth by the Fort Wayne Police Department regarding items pawned at that business during the preceding 24-hour period of operation. The data shall be submitted using the Records Management System used by the Fort Wayne Police Department to record said data.

(B) In addition to submitting the data required under division (A) to the Fort Wayne Police Department, pawn shop dealers shall photograph all precious metals or stones received as part of any transaction, which photograph shall be of clear resolution, shall be retained and preserved on the business premises of such pawn shop owner or secondhand dealer for a period of one year from the date of the transaction and shall be made available to the Fort Wayne Police Department upon request.

(Ord. G-3-15, passed 4-14-15)

§ 115.53 SERIAL NUMBER REQUIRED.

No pawn shop dealer shall accept as collateral security or for purchase any property of the type given manufacturer's serial numbers or other identifying insignia unless such property shall have plainly visible thereon the manufacturer's serial number or other identifying insignia.

§ 115.54 UNLAWFUL PURCHASES.

A pawn shop dealer shall not purchase item(s):

- (A) From an individual less than 18 years of age;
- (B) That the pawn shop dealer believes or should have reason to believe item is stolen property acquired as a result of a crime; or
- (C) From an individual who appears to be or is intoxicated.

(Ord. G-3-15, passed 4-14-15)

SECONDHAND DEALERS

SECONDHAND DEALER. Except for valuable metal dealer, precious metals and stones dealer, pawn shop dealer as defined in this Chapter, any organization which is exempt from federal tax as provided under the Federal Tax Code, used automobile/vehicle dealer, used farm equipment dealer, estate sales or real estate business, a Secondhand Dealer is any person who engages in the business of purchasing, selling, or exchanging of second hand goods or articles which includes, but not limited to:

- (a) COINS. Small pieces of metal, usually flat and circular, authorized for use as money by the United States Department of Treasury or another governmental agency or department,
- (b) ELECTRONIC EQUIPMENT. Televisions, video cameras and receivers, still picture cameras, motion picture cameras and projectors, radios (receiving and sending), digital video disc players, camcorders, tape recorders, cassettes, video tape recorders, stereo equipment, compact disc players, compact discs, video gaming systems, video games,

1 digital video disc players, digital video discs (DVDs), blue-ray disc players, blue-ray
2 discs, portable music devices such as MP3 player, iPods, iPads, and any other electronic
3 equipment.

4 (c) HOUSEHOLD GOODS. Washers, dryers furnaces, air conditioners, microwave
5 ovens, kitchen appliances, china, crystal, silverware, flatware, pianos, organ, guitars, and
6 other musical instruments. (d) OFFICE EQUIPMENT. Typewriters, calculators, cash
7 registers, copying machines, facsimile machines, telephones, cellular phones, computer
8 hardware, software, computers, computer accessories, including tape and disc drives,
9 printers and storage media.

10 (e) TOOLS. Any device used to facilitate manual or mechanical work, including but not
11 limited to cutting, gardening, hand, machine, power tools and lawn mowers, scooters, 4-
12 wheelers, and other conveyances not registered with the BMV.

13 (f) SPORTING GOODS. Golf clubs, sporting equipment, guns, bows, hunting rifles, and
14 other hunting and personal protection equipment.

15 (Ord. G-3-15, passed 4-14-15)

16 **§ 115.52 RECORDS OF PURCHASES, SALES AND EXCHANGES.**

17 (A) Secondhand Dealers shall submit to the Fort Wayne Police Department each
18 business day, all required data set forth by Fort Wayne Police Department
19 regarding all second hand articles purchased, sold, or exchanged by that business
20 during the preceding 24-hour period of operation. The data shall be submitted
21 using the Records Management System used by the Fort Wayne Police
22 Department to record said data.

23 (B) In addition to submitting the data required under division (A) to the Fort Wayne
24 Police Department, Secondhand Dealers shall photograph all precious metals or
25 stones received as part of any transaction, which photograph shall be of clear
26 resolution, shall be retained and preserved on the business premises of such pawn
27 shop owner or secondhand dealer for a period of one year from the date of the
28 transaction and shall be made available to the Fort Wayne Police Department
29 upon request.

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2 **§ 115.62 SERIAL NUMBER REQUIRED.**

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4 No Secondhand Dealer shall accept as collateral security or for purchase any property
5 of the type given manufacturer's serial numbers or other identifying insignia unless
6 such property shall have plainly visible thereon the manufacturer's serial number or
7 other identifying insignia.

8 **§ 115.63 RETENTION OF ACQUIRED PERSONAL PROPERTY.**

9 All personal property received by a Secondhand Dealer under this article shall be held
10 intact by the licensee for at least seven (7) business days after the licensee has mailed a
11 copy of the record required to be maintained under state law, which details the item of
12 personal property received, to the local law enforcement agency having jurisdiction
13 over the location of his place of business. Whenever any licensee receives written
14 notice, either from the Fort Wayne Police Department or from an individual, that
15 someone is maintaining a claim of right to possession of the personal property adverse
16 to the licensee, the licensee shall keep the personal property in his possession for thirty
17 (30) days or turn it over to the local law enforcement agency if so required by the Fort
18 Wayne Police Department. Once notice of an adverse claim to the article has been
19 given under this section, the article shall be held for thirty (30) days, during which
20 legal proceedings may be commenced to determine who is entitled to the property. If
21 the matter is not settled or legal proceedings have not been commenced within thirty
22 (30) days, the property shall be returned to the Secondhand Dealer by the Fort Wayne
23 Police Department if held by them.

24 **§ 115.64 UNLAWFUL PURCHASES.**

25 A Secondhand Dealer may not purchase item(s):

26 (A) From an individual less than 18 years of age;

27 (B) That the Secondhand Dealer believes or should have reason to believe item is
28 stolen property acquired as a result of a crime; or

29 (C) From an individual who appears to be or is intoxicated.
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SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Approved As To Form And Legality

17

To: City Council

From: Detective Joe Lyon

Date: December 5, 2018

Re: Pawn Shop and Second Hand Store Ordinance Changes

Summary

In redrafting this ordinance, we wanted to address some areas that have arisen over the last several years. Since taking over the Pawn Detail for the FWPD, I have used the ordinance and LeadsOnline to recover property with an estimated value in excess of \$1 Million Dollars. During that time, I have found some areas of the ordinance that, after reviewing them with my immediate command, needed updating.

Primarily, we wanted to address two (2) issues:

- 1) Preventing items that should be serialized that have those numbers removed being taken into the shops. It is a misdemeanor to alter serial numbers, and this is also to prevent the shops from violating state law.
- 2) Preventing intoxicated persons (alcohol/narcotics) from disposing of property. All too often, perpetrators of theft/burglary are under the influence of some type of mind altering substance, and use the pawn shops to dispose of their ill-gotten gains quickly.

Further, we saw a need to bifurcate the pawn shops from the second hand stores. Pawn shops are a unique entity, and are heavily regulated through the state (IC 28-7-5). Second hand stores are not. We are finding that several second hand stores have been taking in what is later determined to be stolen items, and because of a loophole within the ordinance, were not reporting what they were taking in.

With the growth of "Thrift" type stores, that portion of the ordinance needed to be strengthened and separate from pawn shops. We needed to put specific language within that part of the ordinance to address that particular type of business and their reporting. We weren't concerning ourselves with those businesses buying things at estate sales or abandoned storage units, which is primarily how these types of businesses obtain their goods. This is only to address those purchases that are "off the street."

We also saw a need to update the language within the ordinance, such as updating the penalty section to give the courts the final decision in the penalty amount.

Working with the City Attorney's Office, we reviewed similar ordinances from several other communities within the State of Indiana. Some were much more restrictive; others were much more lenient. We feel that this update is a "happy medium" that will be easily enforceable while at the same time not be a burden upon the affected businesses.