

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF SECTION 116.02, PORT ST. LUCIE CITY CODE, PAWNBROKERS AND SECONDHAND DEALERS - PERTAINING TO DEFINITIONS; PROVIDING FOR THE AMENDMENT OF SECTION 116.03, PORT ST. LUCIE CITY CODE, EXEMPTIONS; PROVIDING AN EFFECTIVE DATE.

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. Port St. Lucie City Code Section 116.02 is hereby amended to read as follows:

Chapter 116 – Pawnbrokers and Secondhand Dealers

Section 116.02 – Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consignment shop means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

Electronic item means any computer and accessories, mobile or desktop; tablets; notebooks, E-readers; I-devices; video game systems; audio and video equipment, including television sets, compact disc players, Blu-ray players, DVD players, radios, amplifiers, receivers, turntables, tape recorders, speakers, and CB radios; radar detectors; telephones, including cellular and portable; calculators; musical instruments; home theater systems; MP3 players; electrical appliances, stove/range, refrigerator; microwave, oven, freezer, washer; dryer; headphones; cameras; electrical marine equipment; GPS navigation systems; air purifiers; dehumidifiers; and AC units.

Pawn means any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the

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duration of the pawn and may be redeemed by the pledgor on the terms and conditions contained in section 539.001, et seq., Florida Statutes.

Pawnbroker means any person duly licensed under Chapter 539, Florida Statutes, who is engaged in the business of making pawns; who makes a public display containing the term "pawn," "pawnbroker," or "pawnshop" or any derivative thereof; or who publicly displays a sign or symbol historically identified with pawns. A pawnbroker may also engage in the business of purchasing goods which includes consignment and trade.

Pledge means either of the following transactions:

(a) *Buy-sell agreement* means an agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

(b) *Loan of money* means a written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

Precious metals means any item containing any gold, silver, or platinum or any combination thereof, excluding the following:

(1) Any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

(2) Any coin with an intrinsic value less than its numismatic value.

(3) Any gold bullion coin.

(4) Any gold, silver, or platinum bullion that has been assayed and that is properly marked as to its weight and fineness.

(5) Any coin which is mounted in a jewelry setting.

Precious metals dealer means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

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Secondhand dealer means any person who is not a secondary metals recycler and who is engaged in the business of purchasing, consigning, or trading secondhand goods or entering into title loan transactions. However, secondhand dealers are not limited to dealing only in items defined as secondhand goods this section. Except as provided in subsection ~~416.03(A)(1)~~ 116.03(a)(1), the term "secondhand dealer" means jewelers, precious metals dealers, garage sale operators, secondhand stores, and consignment shops.

Secondhand goods means personal property previously owned or used, which is not regulated metals property, regulated under Section 538.18 et seq., Florida Statutes and which is purchased, consigned, or traded as used property. Such secondhand goods do not include household furniture, lamps, glassware, everyday eating utensils, baby/children toys, baby essentials, office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is ~~not permanently labeled with a~~ does not have a manufacturer's applied serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

Secondhand store means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer or conducts business, including pawnshops.

Title loan means a loan of money secured by bailment of a certificate of title to a motor vehicle. A title loan is not a pawn if the secondhand dealer does not maintain physical possession of the vehicle throughout the term of the transaction.

Transaction means any title loan, purchase, consignment, or pawn of secondhand goods by a secondhand dealer.

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Section 2. Port St. Lucie City Code Section 116.03 is hereby amended to read as follows:

Section 116.03. - Exemptions.

(a) This chapter does not apply to the following:

(1) Any secondhand goods transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization other than a secondary metals recycler subject to Section 538.18, et seq., Florida Statutes.

(2) A law enforcement officer acting in an official capacity.

(3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondhand dealer.

(4) Any public official acting under judicial process or authority who has presented proof of such status to the secondhand dealer.

(5) A sale on the execution or by virtue of any process issued by a court, if proof thereof has been presented to the secondhand dealer.

(6) Any garage sale operator who holds garage sales less than four (4) weekends per calendar year. This exemption comports with the provisions of ~~section 155.03(i)~~ section 155.03 (l) prohibiting more than three (3) garage sales per calendar year within the city.

(7) Any person at antique, coin, or collectible shows or sales.

(8) Any person who sells household personal property as an agent for the property owner or the owner's representative pursuant to a written agreement at that person's residence.

(9) The purchase, consignment, or pawn of secondhand goods from one secondhand dealer to another secondhand dealer when the selling secondhand dealer has complied with the requirements of this article.

ORDINANCE 12-61

(10) Any person accepting a secondhand good, with the exception of any electronic item as defined in 116.02 or any item with a manufacturer's applied serial number, as a trade-in for a similar item of greater value.

~~(11) Any person purchasing, consigning, or trading secondhand goods at a flea market regardless of whether at a temporary or permanent business location at the flea market, unless said vendor conducts business transactions otherwise governed by the State of Florida.~~

(12) (11) Any auction business as defined in Section 468.382(1), Florida Statutes, operating as an auction business in the buying and selling of estates, business inventory, surplus merchandise, or business liquidations.

~~(12) (12) Any business that is registered with the State Department of Revenue for sales tax purposes as an antique dealer pursuant to Chapter 212, Florida Statutes, and that purchases secondhand goods from the property owner or such owner's representative at the property owner's residence pursuant to a written agreement that states the name, address, and telephone number of the property owner and the type of property purchased.~~

(13) (13) Any person purchasing, consigning, or pawning secondhand goods ordered by mail; computer-assisted shopping; media-assisted, media-facilitated, or media-solicited shopping; or shopping by other means of media communication, including but not limited to direct mail advertising; unsolicited distribution of catalogs; television, radio, or other electronic media; telephone, magazine, or newspaper advertising, so long as such person is in this state at the time of the order.

~~(14) (14) A motor vehicle dealer as defined in Section 320.27, Florida Statutes.~~

(b) This chapter does not apply to secondary metals recyclers regulated under Section 538.18, et seq., Florida Statutes.

ORDINANCE 12-61

Section 3. This Ordinance shall become effective ten (10) days after its final adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this _____ day of _____, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

ATTEST:

By: _____
JoAnn M. Faiella, Mayor

Karen A. Phillips, City Clerk

APPROVED AS TO FORM: _____
Roger G. Orr, City Attorney

ACTION: Motion passed unanimously to approve Resolution 12-R99.

d) **RESOLUTION 12-R100, APPROVING AND ACCEPTING THE PRELIMINARY AND FINAL PLAT FOR PRIMA VISTA COMMERCIAL CENTER (P12-099) WITHIN THE CITY OF PORT ST. LUCIE, FLORIDA ON THE REQUEST OF THE SHOPPES AT PRIMA VISTA, LLC.; AUTHORIZING THE MAYOR AND CITY CLERK TO COUNTERSIGN SAID PLAT; PROVIDING AN EFFECTIVE DATE.**

ACTION: Motion passed unanimously to approve Resolution 12-R100.

12. UNFINISHED BUSINESS

a) **DISCUSSION REGARDING ORDINANCE 11-63 AS IT RELATES TO CONSIGNMENT SHOPS, COUNCILMAN KELLY**

ACTION: It was the consensus of the Council to bring Item 12 a) back to Council as an ordinance.

b) **DISCUSSION REGARDING AMENDING ORDINANCE 09-100, ART IN PUBLIC PLACES REQUIREMENTS, PLANNING AND ZONING**

ACTION: Motion passed unanimously to approve staff's recommendations and to add two members to the Public Art Advisory Board, with one new member coming from the Chamber of Commerce and the other new member coming from Treasure Coast Builders Association.

13. NEW BUSINESS

a) **DISCUSSION REGARDING CITY OF PORT ST. LUCIE CHAPTER 155 SIGN CODE ZONING TEXT AMENDMENT - BANNERS, COUNCILMAN KELLY**

ACTION: Motion passed to allow banners from October 15 to January 2, with Vice Mayor Bartz, Mayor Faiella, Councilwoman Martin, and Councilman Kelly voting in favor, and Councilwoman Berger voting against.

OTHER: The City Manager advised Council that the proposed change to the ordinance will come back at the next Council meeting.

b) **DISCUSSION REGARDING SCREENING OF RECYCLING DUMPSTERS, GARBAGE CONTAINER ENCLOSURES, COUNCILMAN KELLY**

OTHER: Councilman Kelly requested Item 13 b) be postponed to obtain additional information, and to bring it back to Council at another time.

ADDITIONAL INFORMATION



Port St. Lucie Police Department

COUNCIL ITEM 12A
DATE 9-24-12

memorandum

TO : Gregory J. Oravec
City Manager

FROM : John A. Bolduc *JAB*
Chief of Police

DATE : September 20, 2012

SUBJECT : Pawnbroker & Secondhand Dealer Ordinance

It was brought to my attention the recently approved City Ordinance, Chapter 116, Pawnbrokers and Secondhand Dealers was unnecessarily impeding sales for secondhand dealers and consignment shops of household furniture and goods.

The original need for the ordinance was to prevent evidence from residential and auto burglaries from being disposed of without records through pawn shops and secondhand dealers. The ordinance was also constructed to restrict the trade and disposition of possibly stolen items long enough for a proper investigation to reveal their whereabouts. Additionally, the ordinance was constructed to require the documentation of secondhand dealings through a statewide database program which would give investigators the opportunity to locate stolen items before they were sold or disposed of by another means.

After the ordinance was approved and we entered the compliance mode, we began to notice there were some unnecessary and foreseen ramifications of the ordinance. Specifically, the trade and consignment of household furniture and other household items not normally the target of theft during burglaries were being unnecessarily restricted and documented. It is evident the ordinance needed to be amended to more narrowly focus the scope and avoid items that are not normally the target of larceny.

Additionally, during the last legislative session, the Florida Legislation amended F.S.S. 538, which deals with secondhand dealers and secondhand metals recyclers to better define some of the items covered by the law, and clarify which types of businesses should be regulated such as flea markets and estate sales.

I met with the Criminal Investigations Division Commander and the Pawn Compliance Officer and we have drafted language to address these concerns. I met with City Attorney Roger Orr and he has reviewed the recommended amendments and advised us to proceed with placing this matter on the agenda for City Council approval.

Attached, please find the attached Agenda Item Request, as well as a draft of the amended Chapter 116, Port St. Lucie Code of Ordinances. Should you need further information, please contact me at your convenience.

JAB/jk

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SEP 21 2012

City Managers Office

**PORT ST. LUCIE CITY COUNCIL
AGENDA ITEM REQUEST**

TYPE OF MEETING: REGULAR X SPECIAL

DATE OF MEETING: September 24, 2012

ORDINANCE X RESOLUTION MOTION

OTHER:

ITEM: Chapter 116 Pawnbrokers and Secondhand Dealers

RECOMMENDED ACTION: Approval and Signature

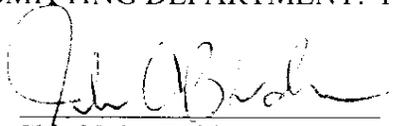
EXHIBITS: Amendment to ordinance

SUMMARY EXPLANATION/BACKGROUND INFORMATION:

IF PRESENTATION IS TO BE MADE, HOW MUCH TIME WILL BE REQUIRED?

5 min.

SUBMITTING DEPARTMENT: Police

BY: 

Chief John Bolduc

DATE:

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SEP 21 2012

City Manager's Office

CHAPTER 116 . . . - PAWNBROKERS AND SECONDHAND DEALERS

Sec. 11601. - Title.

This chapter shall be known as the Pawnbroker and Secondhand Dealer Ordinance of the City of Port St. Lucie, Florida.

Sec. 11602. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consignment shop means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

Electronic item means any computer and accessories, mobile or desktop; tablets; notebooks, E- readers; I- devices; video game systems; audio and video equipment, including television sets, compact disc players, Blu-ray players, DVD players, radios, amplifiers, receivers, turntables, tape recorders, speakers, and CB radios; radar detectors; telephones, including cellular and portable; calculators; musical instruments; home theater systems; MP3 players; electrical appliances, stove/range, refrigerator; microwave, oven, freezer, washer; dryer; headphones; cameras; electrical marine equipment; GPS navigation systems; air purifiers; dehumidifiers; and AC units.

Pawn means any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on the terms and conditions contained in section 539.001, et seq., Florida Statutes.

Pawnbroker means any person duly licensed under Chapter 539, Florida Statutes, who is engaged in the business of making pawns; who makes a public display containing the term "pawn," "pawnbroker," or "pawnshop" or any derivative thereof; or who publicly displays a sign or symbol historically identified with pawns. A pawnbroker may also engage in the business of purchasing goods which includes consignment and trade.

Pledge means either of the following transactions:

(a) *Buy-sell agreement* means an agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

(b) *Loan of money* means a written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

Precious metals means any item containing any gold, silver, or platinum or any combination thereof, excluding the following:

(1) Any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

(2) Any coin with an intrinsic value less than its numismatic value.

(3) Any gold bullion coin.

(4) Any gold, silver, or platinum bullion that has been assayed and that is properly marked as to its weight and fineness.

(5) Any coin which is mounted in a jewelry setting.

Precious metals dealer means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

Secondhand dealer means any person who is not a secondary metals recycler and who is engaged in the business of purchasing, consigning, or trading secondhand goods or entering into title loan transactions. However, secondhand dealers are not limited to dealing only in items defined as secondhand goods this section. Except as provided in subsection ~~116.03(A)(1)~~ 116.03(a)(1), the term "secondhand dealer" means jewelers, precious metals dealers, garage sale operators, secondhand stores, and consignment shops.

Secondhand goods means personal property previously owned or used, which is not regulated metals property, regulated under Section 538.18 et seq., Florida Statutes and which is purchased, consigned, or traded as used property. Such secondhand goods do not include household furniture, lamps, glassware, everyday eating utensils, baby/children toys, baby essentials, office furniture, pianos, books, clothing, organs,

coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use and secondhand sports equipment that is ~~not permanently labeled with a~~ does not have a manufacturer's applied serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

Secondhand store means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer or conducts business, including pawnshops.

Title loan means a loan of money secured by bailment of a certificate of title to a motor vehicle. A title loan is not a pawn if the secondhand dealer does not maintain physical possession of the vehicle throughout the term of the transaction.

Transaction means any title loan, purchase, consignment, or pawn of secondhand goods by a secondhand dealer.

Sec. 116 .03. - Exemptions.

(a) This chapter does not apply to the following:

(1)

Any secondhand goods transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization other than a secondary metals recycler subject to Section 538.18, et seq., Florida Statutes.

(2) A law enforcement officer acting in an official capacity.

(3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondhand dealer.

(4) Any public official acting under judicial process or authority who has presented proof of such status to the secondhand dealer.

(5) A sale on the execution or by virtue of any process issued by a court, if proof thereof has been presented to the secondhand dealer.

(6) Any garage sale operator who holds garage sales less than four (4) weekends per calendar year. This exemption comports with the provisions of ~~section 155.03(i)~~ section 155.03 (1) prohibiting more than three (3) garage sales per calendar year within the city.

- (7) Any person at antique, coin, or collectible shows or sales.
- (8) Any person who sells household personal property as an agent for the property owner or the owner's representative pursuant to a written agreement at that person's residence.
- (9) The purchase, consignment, or pawn of secondhand goods from one secondhand dealer to another secondhand dealer when the selling secondhand dealer has complied with the requirements of this article.
- (10) Any person accepting a secondhand good, with the exception of any electronic item as defined in 116.02 or any item with a manufacturer's applied serial number, as a trade-in for a similar item of greater value.
- ~~(11) Any person purchasing, consigning, or trading secondhand goods at a flea market regardless of whether at a temporary or permanent business location at the flea market, unless said vendor conducts business transactions otherwise governed by the State of Florida.~~
- (12) ~~(11)~~ Any auction business as defined in Section 468.382(1), Florida Statutes, operating as an auction business in the buying and selling of estates, business inventory, surplus merchandise, or business liquidations.
- (12) Any business that is registered with the State Department of Revenue for sales tax purposes as an antique dealer pursuant to Chapter 212, Florida Statutes, and that purchases secondhand goods from the property owner or such owner's representative at the property owner's residence pursuant to a written agreement that states the name, address, and telephone number of the property owner and the type of property purchased.
- (13) Any person purchasing, consigning, or pawning secondhand goods ordered by mail; computer-assisted shopping; media-assisted, media-facilitated, or media-solicited shopping; or shopping by other means of media communication, including but not limited to direct mail advertising; unsolicited distribution of catalogs; television, radio, or other electronic media; telephone, magazine, or newspaper advertising, so long as such person is in this state at the time of the order.
- (14) A motor vehicle dealer as defined in Section 320.27, Florida Statutes.

(b) This chapter does not apply to secondary metals recyclers regulated under Section 538.18, et seq., Florida Statutes.

Sec. 116 .04. - Business tax receipt.

Secondhand dealers, precious metals dealers, pawnbrokers, and junk dealers, shall obtain a City of Port St. Lucie business tax receipt from the city before engaging in business, as required by Section 111.45, Port St. Lucie Code of Ordinances.

Sec. 116 .05. - Recordkeeping requirements.

(a) The City of Port St. Lucie Police Department shall designate an electronic reporting system for all pawn and secondhand dealer transactions, and shall provide copies of the electronic reporting system software to all pawnbrokers and secondhand dealers, as necessary.

(b) A pawnbroker shall comply with the recordkeeping requirements set forth in Section 539.001(9), Florida Statutes, including but not limited to electronic transfer to the Port St. Lucie Police Department of all pawn transactions using the electronic reporting system designated by the chief of police.

(c) In addition to the recordkeeping requirements set forth in Section 538.04, Florida Statutes, secondhand dealers shall also comply with the recordkeeping requirements set forth in this section.

(d) A second hand dealer as defined in this chapter shall provide an electronic transaction of all articles of any kind purchased or received using the electronic reporting system designated by the police department pursuant to Sections 538.04 and 539.001(9), Florida Statutes. The electronic transaction record shall at all times during business hours be open to the inspection of the police department. The report shall be a full, true, and complete report of all goods, wares, merchandise, or things received on deposit or purchased the previous day. The report shall contain the following:

- (1) The time, date, and place of the transaction.
- (2) A complete and accurate description of the goods acquired, including digital images, any serial numbers, manufacturer's numbers, or other identifying marks or characteristics.
- (3) A description of the person from whom the goods were acquired, including:

- a. Full name, address, place of employment, and home telephone number.
 - b. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
 - c. The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired.
- (4) If any article has engraved thereon a number, word, or initial, or contains settings of any kind, the description of the article in the report shall contain the number, word, or initial and shall show the kind of settings and the number of each kind.
- (5) In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.
- (6) Any other information required by the Florida Department of Law Enforcement.
- (e) A secondhand dealer shall require verification of the identification of the seller by the exhibition of a government-issued photographic identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.
- (f) A second hand dealer shall require a seller to sign a statement verifying that the seller is the rightful owner of the goods or is entitled to sell the goods.
- (g) Each receipt issued by a secondhand dealer shall be numbered consecutively, and if stubs are used in connection with the record of the transaction retained by the secondhand dealer, each stub shall be numbered consecutively to conform to the receipt.
- (h) The electronic reporting system will provide for an upload of a complete electronic report as described in this section. Each second hand dealer and pawnbroker shall, at the end of each business day, provide an electronic upload to the electronic reporting system of all transactions that occurred during that business day.
- (i) Secondhand dealers are exempt from this section for all transactions involving secondhand sports equipment, except secondhand sports equipment that is permanently labeled with a serial number.

Sec. 116 .06. - Inspection of records and premises.

(a) The premises and required records of each secondhand dealer and pawnbroker are subject to inspection during regular business hours by the Port St. Lucie Police Department and by any state law enforcement officer who has jurisdiction over the dealer.

(b) The inspection authorized by subsection (a) of this section shall consist of an examination on the premises of the inventory and required records to determine whether the records and inventory are being maintained on the premises as required by Section 116.05, and whether the secondhand dealer or pawnbroker has complied with the holding period requirements of Section 116.07.

Sec. 116 .07. - Holding period.

(a) A pawnbroker shall comply with the holding requirements set forth in Section 539.001(9), Florida Statutes.

(b) A secondhand dealer shall comply with the following holding requirements:

(1) A secondhand dealer shall not sell, barter, exchange, alter, adulterate, or in any way dispose of any secondhand goods within thirty (30) calendar days of the date of acquisition of the goods. Such holding period is not applicable when the person known by the secondhand dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the person from whom the goods were originally acquired.

(2) A secondhand dealer shall maintain actual physical possession of all secondhand goods throughout a transaction. It is unlawful for a secondhand dealer to accept title or any other form of security in secondhand goods in lieu of actual physical possession.

(3) Upon probable cause that goods held by a secondhand dealer are stolen, a law enforcement officer with jurisdiction may extend the holding period to a maximum of ninety (90) days. The law enforcement officer must make the hold order, and the secondhand dealer must act, in compliance with the provisions of Section 538.06(3), Florida Statutes. However, the holding period may be extended beyond ninety (90) days by a court of competent jurisdiction upon a finding of probable cause that the property is stolen and further holding is necessary for the purposes of trial or to safeguard such property. The dealer shall assume all responsibility, civil or criminal, relative to the property or evidence in question, including responsibility for the actions of any employee with respect thereto.

(4) All dealers in secondhand property regulated by this article shall maintain transaction records for five (5) years.

(c) Subject to the requirements of Chapter 537, Florida Statutes, and the restrictions in Section 538.15, Florida Statutes, a secondhand dealer may engage in a title loan transaction, and the physical possession requirements of Subsection 116.07 (b) (2) of this section shall not apply if the following conditions are met:

(1) The secondhand dealer maintains physical possession of the motor vehicle title.

(2) The owner maintains possession of or control over the motor vehicle throughout the transaction.

(3) The owner is not required to pay rent or any other charge for the use of the motor vehicle.

(4) A secondhand dealer who engages in a motor vehicle title loan transaction has the right to repossess the motor vehicle upon failure of the owner to redeem the title. The secondhand dealer shall only repossess a motor vehicle through an agent who is licensed by the state to repossess motor vehicles. The secondhand dealer may dispose of the motor vehicle as provided in Section 538.16, Florida Statutes. Any sale or disposal of the motor vehicle shall be made through a motor vehicle dealer licensed under Section 320.27, Florida Statutes.

(5) No charges other than those charges permitted in Section 537.011, Florida Statutes, shall be allowed, and such charges shall be fully disclosed, conspicuously in writing, and initialed by the motor vehicle owner at the initiation of the transaction.

Sec. 116 .08. - Certain acts and practices prohibited.

It is unlawful for a secondhand dealer or any employee of the secondhand dealer to do or allow any of the following acts:

- (a) Knowingly make a transaction with any person who is:
 - (1) Under the influence of drugs or alcohol when such condition is visible or apparent;
 - (2) Under the age of eighteen (18) years; or

- (3) Using a name other than such person's own name or the registered name of such person's business.
- (b) Have a secondhand store open or engage in or conduct business as a secondhand dealer between the hours of 10:00 p.m. and 7:00 a.m. A secondhand dealer shall not conduct any transaction at a drive-through window or similar device.
- (c) Fail to pay any sales tax owed to the Florida Department of Revenue or fail to have a sales tax registration number.
- (d) Engage in title loan transactions from at, within or adjoining a licensed pawn shop or secondhand dealer location.
- (e) Use the word "pawn" or "pawnbroker" in any transaction, documentation, advertising or promotional materials, signs, displays, banners, or other materials of any nature relating to the secondhand dealer's business.

Sec. 116 .09. - Penalties.

Any person willfully violating the provisions of this chapter, other than clerical or recordkeeping errors, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred and dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days, or both such fine and imprisonment. Each day of noncompliance with this chapter shall be deemed a separate offense.

Sec. 116 .10. - Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

12A
9-24-12

~~COUNCIL ITEM 13E~~
~~DATE~~ 9/10/12

MEMORANDUM

TO: GREGORY J. ORAVEC, CITY MANAGER
FROM: JACK KELLY, COUNCILMAN, DISTRICT 4
DATE: SEPTEMBER 4, 2012
SUBJECT: AGENDA REQUEST

Please place on the September 10, 2012 Council meeting a discussion regarding the Pawn Broker precious metals ordinance as it relates to a consignment shop.



JK/brc

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AUG 31 2012

City Manager's Office

COUNCIL ITEM 81
DATE 8/22/11

~~COUNCIL ITEM 101~~
~~DATE 8/8/11~~

ORDINANCE 11-63

AN ORDINANCE CREATING CHAPTER 116 OF THE PORT ST. LUCIE CITY CODE RELATING TO PAWNBROKERS AND SECONDHAND DEALERS; CREATING SECTION 116.01, TITLE; CREATING SECTION 116.02, DEFINITIONS; CREATING SECTION 116.03, EXEMPTIONS; CREATING SECTION 116.04, BUSINESS TAX RECEIPT; CREATING SECTION 116.05, RECORDKEEPING REQUIREMENTS; CREATING SECTION 116.06, INSPECTION OF RECORDS AND PREMISES; CREATING SECTION 116.07, HOLDING PERIOD; CREATING SECTION 116.08, CERTAIN ACTS AND PRACTICES PROHIBITED; CREATING SECTION 116.09, PENALTIES; CREATING SECTION 116.10, SEVERABILITY; CREATING SECTIONS 116.11 – 116.20 RESERVED; PROVIDING AN EFFECTIVE DATE

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. That Port St. Lucie City Code is hereby amended by adding a new Chapter which shall read as follows:

Sec. 116.01. Title

This Chapter shall be known as the Pawnbroker and Secondhand Dealer Ordinance of the City of Port St. Lucie, Florida.

Sec. 116.02. Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consignment shop means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

Pawn means any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on the terms and conditions contained in section 539.001, et seq., Florida Statutes.

Pawnbroker means any person duly licensed under Chapter 539, Florida Statutes, who is engaged in the business of making pawns; who makes a public display containing the term "pawn," "pawnbroker," or "pawnshop" or any derivative thereof; or who publicly displays a sign or symbol historically identified with pawns. A pawnbroker

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may also engage in the business of purchasing goods which includes consignment and trade.

Pledge means either of the following transactions:

(a) *Buy-sell agreement* means an agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

(b) *Loan of money* means a written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

Precious metals means any item containing any gold, silver, or platinum or any combination thereof, excluding the following:

(a) Any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

(b) Any coin with an intrinsic value less than its numismatic value.

(c) Any gold bullion coin.

(d) Any gold, silver, or platinum bullion that has been assayed and that is properly marked as to its weight and fineness.

(e) Any coin which is mounted in a jewelry setting.

Precious metals dealer means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

Secondhand dealer means any person who is not a secondary metals recycler and who is engaged in the business of purchasing, consigning, or trading secondhand goods or entering into title loan transactions. However, secondhand dealers are not limited to dealing only in items defined as secondhand goods this section. Except as provided in subsection 116.03(A)(1), the term "secondhand dealer" means jewelers, precious metals dealers, garage sale operators, secondhand stores, and consignment shops.

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Secondhand goods means personal property previously owned or used, which is not regulated metals property, regulated under Section 538.18 et seq., Florida Statutes and which is purchased, consigned, or traded as used property. Such secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, and secondhand sports equipment that is not permanently labeled with a serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

Secondhand store means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer or conducts business, including pawnshops.

Title loan means a loan of money secured by bailment of a certificate of title to a motor vehicle. A title loan is not a pawn if the secondhand dealer does not maintain physical possession of the vehicle throughout the term of the transaction.

Transaction means any title loan, purchase, consignment, or pawn of secondhand goods by a secondhand dealer.

Sec. 116.03. Exemptions.

(A) This Ordinance does not apply to the following:

(1) Any secondhand goods transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization other than a secondary metals recycler subject to Section 538.18, et seq., Florida Statutes.

(2) A law enforcement officer acting in an official capacity.

(3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondhand dealer.

(4) Any public official acting under judicial process or authority who has presented proof of such status to the secondhand dealer.

(5) A sale on the execution or by virtue of any process issued by a court, if proof thereof has been presented to the secondhand dealer.

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(6) Any garage sale operator who holds garage sales less than four (4) weekends per calendar year. This exemption comports with the provisions of section 155.03(l) prohibiting more than three (3) garage sales per calendar year within the City.

(7) Any person at antique, coin, or collectible shows or sales.

(8) Any person who sells household personal property as an agent for the property owner or the owner's representative pursuant to a written agreement at that person's residence.

(9) The purchase, consignment, or pawn of secondhand goods from one secondhand dealer to another secondhand dealer when the selling secondhand dealer has complied with the requirements of this article.

(10) Any person accepting a secondhand good as a trade-in for a similar item of greater value.

(11) Any person purchasing, consigning, or trading secondhand goods at a flea market regardless of whether at a temporary or permanent business location at the flea market, unless said vendor conducts business transactions otherwise governed by the State of Florida.

(12) Any auction business as defined in Section 468.382(1), Florida Statutes.

(13) Any business that is registered with the State Department of Revenue for sales tax purposes as an antique dealer pursuant to Chapter 212, Florida Statutes, and that purchases secondhand goods from the property owner or such owner's representative at the property owner's residence pursuant to a written agreement that states the name, address, and telephone number of the property owner and the type of property purchased.

(14) Any person purchasing, consigning, or pawning secondhand goods ordered by mail; computer-assisted shopping; media-assisted, media-facilitated, or media-solicited shopping; or shopping by other means of media communication, including but not limited to direct mail advertising; unsolicited distribution of catalogs; television, radio, or other electronic media; telephone, magazine, or newspaper advertising, so long as such person is in this state at the time of the order.

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(15) A motor vehicle dealer as defined in Section 320.27, Florida Statutes.

(B) This ordinance does not apply to secondary metals recyclers regulated under Section 538.18, et seq., Florida Statutes.

Sec. 116.04. Business Tax Receipt.

Secondhand dealers, precious metals dealers, pawnbrokers, and junk dealers, shall obtain a City of Port St. Lucie business tax receipt from the City of Port St. Lucie before engaging in business, as required by Section 111.45, Port St. Lucie Code of Ordinances.

Sec. 116.05. Recordkeeping Requirements.

(A) The City of Port St. Lucie Police Department shall designate an electronic reporting system for all pawn and secondhand dealer transactions, and shall provide copies of the electronic reporting system software to all pawnbrokers and secondhand dealers, as necessary.

(B) A pawnbroker shall comply with the recordkeeping requirements set forth in Section 539.001(9), Florida Statutes, including but not limited to electronic transfer to the Port St. Lucie Police Department of all pawn transactions using the electronic reporting system designated by the Chief of Police.

(C) In addition to the recordkeeping requirements set forth in Section 538.04, Florida Statutes, secondhand dealers shall also comply with the recordkeeping requirements set forth in this section.

(D) A second hand dealer as defined in this Ordinance shall provide an electronic transaction of all articles of any kind purchased or received using the electronic reporting system designated by the Port St. Lucie Police Department pursuant to Sections 538.04 and 539.001(9), Florida Statutes. The electronic transaction record shall at all times during business hours be open to the inspection of the Port St. Lucie Police Department. The report shall be a full, true, and complete report of all goods, wares, merchandise, or things received on deposit or purchased the previous day. The report shall contain the following:

- (1) The time, date, and place of the transaction

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(2) A complete and accurate description of the goods acquired, including digital images, any serial numbers, manufacturer's numbers, or other identifying marks or characteristics.

(3) A description of the person from whom the goods were acquired, including:

- (a) Full name, address, place of employment, and home telephone number.
- (b) Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
- (c) The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired.

(4) If any article has engraved thereon a number, word, or initial, or contains settings of any kind, the description of the article in the report shall contain the number, word, or initial and shall show the kind of settings and the number of each kind.

(5) In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.

(6) Any other information required by the Florida Department of Law Enforcement.

(E) A secondhand dealer shall require verification of the identification of the seller by the exhibition of a government-issued photographic identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.

(F) A second hand dealer shall require a seller to sign a statement verifying that the seller is the rightful owner of the goods or is entitled to sell the goods

(G) Each receipt issued by a secondhand dealer shall be numbered consecutively, and if stubs are used in connection with the record of the transaction retained by the secondhand dealer, each stub shall be numbered consecutively to conform to the receipt.

(H) The electronic reporting system will provide for an upload of a complete electronic report as described in this section. Each second hand dealer and pawnbroker

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shall, at the end of each business day, provide an electronic upload to the electronic reporting system of all transactions that occurred during that business day.

(l) Secondhand dealers are exempt from this section for all transactions involving secondhand sports equipment, except secondhand sports equipment that is permanently labeled with a serial number.

Sec. 116.06. Inspection of Records and Premises.

(A) The premises and required records of each secondhand dealer and pawnbroker are subject to inspection during regular business hours by the Port St. Lucie Police Department and by any state law enforcement officer who has jurisdiction over the dealer.

(B) The inspection authorized by subsection (A) of this section shall consist of an examination on the premises of the inventory and required records to determine whether the records and inventory are being maintained on the premises as required by Section 116.05, and whether the secondhand dealer or pawnbroker has complied with the holding period requirements of Section 116.07.

Sec. 116.07. Holding Period.

(A) A pawnbroker shall comply with the holding requirements set forth in Section 539.001(9), Florida Statutes.

(B) A secondhand dealer shall comply with the following holding requirements:

(1) A secondhand dealer shall not sell, barter, exchange, alter, adulterate, or in any way dispose of any secondhand goods within thirty (30) calendar days of the date of acquisition of the goods. Such holding period is not applicable when the person known by the secondhand dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the person from whom the goods were originally acquired.

(2) A secondhand dealer shall maintain actual physical possession of all secondhand goods throughout a transaction. It is unlawful for a secondhand dealer

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to accept title or any other form of security in secondhand goods in lieu of actual physical possession.

(3) Upon probable cause that goods held by a secondhand dealer are stolen, a law enforcement officer with jurisdiction may extend the holding period to a maximum of ninety (90) days. The law enforcement officer must make the hold order, and the secondhand dealer must act, in compliance with the provisions of Section 538.06(3), Florida Statutes. However, the holding period may be extended beyond ninety (90) days by a court of competent jurisdiction upon a finding of probable cause that the property is stolen and further holding is necessary for the purposes of trial or to safeguard such property. The dealer shall assume all responsibility, civil or criminal, relative to the property or evidence in question, including responsibility for the actions of any employee with respect thereto.

(4) All dealers in secondhand property regulated by this article shall maintain transaction records for five (5) years.

(C) Subject to the requirements of Chapter 537, Florida Statutes, and the restrictions in Section 538.15, Florida Statutes, a secondhand dealer may engage in a title loan transaction, and the physical possession requirements of Subsection 116.07(b)(2) of this section shall not apply if the following conditions are met:

(1) The secondhand dealer maintains physical possession of the motor vehicle title.

(2) The owner maintains possession of or control over the motor vehicle throughout the transaction.

(3) The owner is not required to pay rent or any other charge for the use of the motor vehicle.

(4) A secondhand dealer who engages in a motor vehicle title loan transaction has the right to repossess the motor vehicle upon failure of the owner to redeem the title. The secondhand dealer shall only repossess a motor vehicle through an agent who is licensed by the state to repossess motor vehicles. The secondhand dealer may dispose of the motor vehicle as provided in Section 538.16, Florida Statutes.

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Any sale or disposal of the motor vehicle shall be made through a motor vehicle dealer licensed under Section 320.27, Florida Statutes.

(5) No charges other than those charges permitted in Section 537.011, Florida Statutes, shall be allowed, and such charges shall be fully disclosed, conspicuously in writing, and initialed by the motor vehicle owner at the initiation of the transaction.

Sec. 116.08. Certain Acts and Practices Prohibited.

It is unlawful for a secondhand dealer or any employee of the secondhand dealer to do or allow any of the following acts:

(A) Knowingly make a transaction with any person who is:

1. Under the influence of drugs or alcohol when such condition is visible or apparent;
2. Under the age of 18 years; or
3. Using a name other than such person's own name or the registered name of such person's business.

(B) Have a secondhand store open or engage in or conduct business as a secondhand dealer between the hours of 10:00 p.m. and 7:00 a.m. A secondhand dealer shall not conduct any transaction at a drive-through window or similar device.

(C) Fail to pay any sales tax owed to the Florida Department of Revenue or fail to have a sales tax registration number.

(D) Engage in title loan transactions from at, within or adjoining a licensed pawn shop or secondhand dealer location.

(E) Use the word "pawn" or "pawnbroker" in any transaction, documentation, advertising or promotional materials, signs, displays, banners, or other materials of any nature relating to the secondhand dealer's business.

Sec. 116.09. Penalties.

Any person willfully violating the provisions of this ordinance, other than clerical or recordkeeping errors, shall be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred and 00/100 dollars (\$500.00) or by imprisonment in the county jail

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not to exceed sixty (60) days, or both such fine and imprisonment. Each day of noncompliance with this ordinance shall be deemed a separate offense.

Sec 116.10. Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

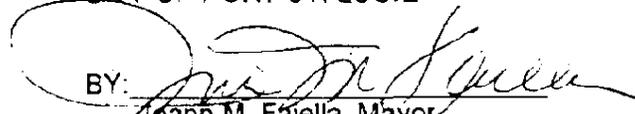
Secs. 116.11 – 116.20. Reserved

Section 2. This Ordinance shall become effective ten (10) days after its final adoption.

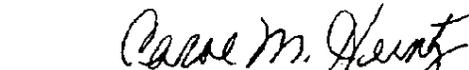
PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 22nd day of AUGUST, 2011

CITY COUNCIL
CITY OF PORT ST. LUCIE

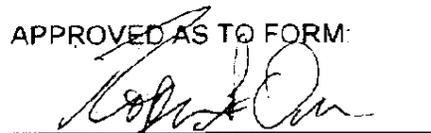
BY:


Joann M. Faiella, Mayor

ATTEST:


for Karen A. Phillips, City Clerk

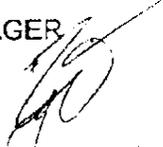
APPROVED AS TO FORM:


Roger G. Orr, City Attorney



MEMORANDUM

TO: JERRY A. BENTROTT, CITY MANAGER

THRU: ROGER G. ORR, CITY ATTORNEY 

FROM: GABRIELLE TAYLOR, ASSISTANT CITY ATTORNEY  **RECEIVED**

DATE: AUGUST 2, 2011 AUG 03 2011

SUBJECT: ORDINANCE CREATING SECTION 116.01 THROUGH 116.20 Manager's Office

Attached please find an Ordinance creating sections 116.01 through 116.20, the Pawnbroker and Secondhand Dealer Ordinance.

Pawn shops, second hand dealers and precious metal dealers are regulated by two separate state agencies with similar, but different requirements. For example, pawn shops are required to hold purchased items for thirty days, but pawned items must be held for sixty days. Precious metals and second hand dealers are only required to hold items for fifteen days.

In fact, some pawn shops are obtaining a second hand dealers license in order to avoid the thirty day hold for purchased items. All three businesses currently report their received items to the St. Lucie County Sheriff's Office.

The Port St. Lucie Police Department ("PSLPD") has found a direct correlation between habitual burglary suspects supporting their drug habits by burglarizing residents, and immediate sales of stolen items to the aforementioned businesses. By the time the items are reported stolen to the PSLPD and the Detective Bureau has had the opportunity to investigate, the items have often already been sold, or in the case of jewelry, melted down, and the evidence is lost.

The PSLPD is attempting to implement an ordinance that requires a longer uniform holding period which would provide enough time for them to investigate items that have been reported stolen. The ordinance would also require the businesses to report received items electronically, and on a daily basis per Florida State Statutes. The PSLPD, St. Lucie County Sheriff's Office, and the County and City legal departments have worked together on drafting their applicable ordinances, and the County's has passed, effective January 1, 2012.

Please place this Ordinance on the City Council Agenda for first reading at the next council meeting.

Please advise if you have any further questions in this regard.

GT/mh
Attach.

cc: City Council
Karen A. Phillips, City Clerk

h) **ORDINANCE 11-62**, PROVIDING FOR THE AMENDMENT OF SECTION 94.02, PORT ST. LUCIE CITY CODE; PERTAINING TO DEFINITIONS; AMENDING ORDINANCE TO REMOVE REFERENCES TO FIREARMS; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-62 aloud by title only. Councilwoman Berger **moved** to approve Ordinance 11-62. Vice Mayor Bartz **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 11-62. The **motion passed unanimously** roll call vote.

1st Reading → 1) **ORDINANCE 11-63**, CREATING CHAPTER 116 OF THE PORT ST. LUCIE CITY CODE RELATING TO PAWNBROKERS AND SECONDHAND DEALERS; CREATING SECTION 116.01, TITLE; CREATING SECTION 116.02, DEFINITIONS; CREATING SECTION 116.03, EXEMPTIONS; CREATING SECTION 116.04, BUSINESS TAX RECEIPT; CREATING SECTION 116.05, RECORDKEEPING REQUIREMENTS; CREATING SECTION 116.06, INSPECTION OF RECORDS AND PREMISES; CREATING SECTION 116.07, HOLDING PERIOD; CREATING SECTION 116.08, CERTAIN ACTS AND PRACTICES PROHIBITED; CREATING SECTION 116.09, PENALTIES; CREATING SECTION 116.10, SEVERABILITY; CREATING SECTIONS 116.11 - 116.20 RESERVED; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-63 aloud by title only. Vice Mayor Bartz **moved** to approve Ordinance 11-63. Councilman Kelly **seconded** the motion, and asked, "Does this mirror the county? Are we in compliance with the county's ordinance?" Ms. Taylor replied, "The county's ordinance is not scheduled to go into effect until January 1, 2012. There was discussion of providing some kind of period during which time the affected people could modify their holding period in increments, but they have known that this was on the horizon for quite some time." Councilwoman Martin asked, "Will curs go into effect ten days after?" Ms. Taylor replied, "That is what the ordinance is drafted to say. If you wish to make a different time period, or if you wish to make it effective on a certain date, but indicate that warnings would be given for a time period, that would also be an option." Councilwoman Martin commented, "I would rather have it become effective ten days after." Vice Mayor Bartz pointed out, "I absolutely agree with that. This has been on the horizon for some time. We worked on it. We know there's an issue. We know that law enforcement has had issues with it. All we're asking is that the secondhand dealers come into the same compliance that a pawnbroker would. Is that not correct?" Ms. Taylor replied, "That's correct, with the 30-day holding period that the pawnbrokers are held to. All of the pawnbrokers are now on the Leads On Line system." The City Clerk restated the motion as

follows: for approval of Ordinance 11-63. The motion passed unanimously roll call vote.

j) **ORDINANCE 11-64**, PROVIDING FOR THE AMENDMENT OF SECTION 96.64, PORT ST. LUCIE CITY CODE; PERTAINING TO HUNTING AND FIREARMS; AMENDING ORDINANCE TO REMOVE REFERENCES TO FIREARMS, RIFLES AND GUNS, AND AMMUNITION THEREFORE; PROVIDING AN EFFECTIVE DATE

The City Clerk read Ordinance 11-64 aloud by title only. Vice Mayor Bartz moved to approve Ordinance 11-64. Councilwoman Martin seconded the motion. Councilman Kelly asked, "Could we have a brief explanation of this ordinance as it pertains to firearms?" The City Attorney replied, "In the last legislative session, the State of Florida absolutely pre-empted any area to deal with firearms. It was pre-empted from any local regulation. It even went further where if there are local ordinances and the police officer enforces it, then the police officer and/or City official may be subject to prosecution." Ms. Taylor noted, "It specifically provides that public funds can't be used either to defend the City official/police officer who acts even in a reasonable manner. We're trying to avoid any issues and get rid of all references to firearms. There are still certain areas that can be regulated, that being in the Planning and Zoning. If you have them lumped into all merchants, that would include gun shops as long as there's no hidden subversive attempt to keep people from owning their firearms in that Planning and Zoning regulation. That kind of wording is still appropriate." The City Clerk restated the motion as follows: for approval of Ordinance 11-64. The motion passed unanimously roll call vote.

k) **ORDINANCE 11-65**, PROVIDING FOR THE AMENDMENT OF CHAPTER 71 TO ADD SECTIONS 71.03 THROUGH 71.08, PORT ST. LUCIE CITY CODE; SPECIFICALLY, SECTION 71.03, INTENT; SECTION 71.04, DEFINITIONS; SECTION 71.05, FINDINGS AND DETERMINATIONS; 71.06, PROHIBITIONS; 71.07, SEVERABILITY; 71.08, PENALTIES; PROVIDING FOR AN EFFECTIVE DATE

(Clerk's Note: Item 10 k) was pulled at the request of the Legal Department, and rescheduled for discussion under New Business for the Council meeting of August 22, 2011).

11. RESOLUTIONS

a) **RESOLUTION 11-R46**, ADOPTING THE NON-AD VALOREM ASSESSMENT ROLL FOR STORMWATER UTILITY USER FEES; SPECIFYING THE UNIT OF MEASUREMENT FOR THE ASSESSMENT AND THE AMOUNT OF THE

roll call vote.

h) **ORDINANCE 11-62**, PROVIDING FOR THE AMENDMENT OF SECTION 94.02, PORT ST. LUCIE CITY CODE; PERTAINING TO DEFINITIONS; AMENDING ORDINANCE TO REMOVE REFERENCES TO FIREARMS; PROVIDING AN EFFECTIVE DATE

The Deputy Clerk Supervisor read Ordinance 11-62 aloud by title only. Mayor Faiella opened the Public Hearing. There being no comments, Mayor Faiella closed the Public Hearing. Councilman Kelly **moved** to approve Ordinance 11-62. Councilwoman Martin **seconded** the motion. The Deputy Clerk Supervisor restated the motion as follows: for approval of Ordinance 11-62. The **motion passed unanimously** by roll call vote.

2ND READING → i) **ORDINANCE 11-63**, CREATING CHAPTER 116 OF THE PORT ST. LUCIE CITY CODE RELATING TO PAWNBROKERS AND SECONDHAND DEALERS; CREATING SECTION 116.01, TITLE; CREATING SECTION 116.02, DEFINITIONS; CREATING SECTION 116.03, EXEMPTIONS; CREATING SECTION 116.04, BUSINESS TAX RECEIPT; CREATING SECTION 116.05, RECORDKEEPING REQUIREMENTS; CREATING SECTION 116.06, INSPECTION OF RECORDS AND PREMISES; CREATING SECTION 116.07, HOLDING PERIOD; CREATING SECTION 116.08, CERTAIN ACTS AND PRACTICES PROHIBITED; CREATING SECTION 116.09, PENALTIES; CREATING SECTION 116.10, SEVERABILITY; CREATING SECTIONS 116.11 - 116.20 RESERVED; PROVIDING AN EFFECTIVE DATE

The Deputy Clerk Supervisor read Ordinance 11-63 aloud by title only. Mayor Faiella opened the Public Hearing.

HAWK LEVY, St. Lucie Jewelry, said, "I've been present for most of the proceedings regarding changing the law to a 30-day hold. I've been at the County Commission meetings and the onset of the idea of holding items for 30 days. I'm in front of the Council because extending it beyond the state limits to 30 days versus 15 days puts a severe financial burden on jewelers and other venues that are buying gold. I operate my business as a jewelry store. The onset of increased buying of gold is a normal part of doing business. Let me explain the financial burden. I am probably the largest buyer of gold on the Treasure Coast. If I buy \$10,000 a day in precious metals, over six days that is over \$60,000. For me to hold these items another 30 days, I have to come up with another \$120,000. The county passed their Code after hearing what I had to say, but they postponed the enactment of the 30 day hold until January to give enough time for businesses to put aside the funds. It was my understanding that this law was going to be the same as the county's. It was discussed with the Sheriff's Office and this was the compromise that was made. I propose the same compromise to the Council. It's a big chunk of money and it doesn't happen overnight. I venture to say that it would push some of the smaller companies over the edge and they won't be able to proceed, because they're on

a hand to mouth basis. I am proposing that you pass the amendment. I pushed for the daily reporting. We started doing it. Pass the ordinance but postpone the 30 day hold until January. I want to make something clear. The City gets reports through LeadsOnLine every morning. There was some misunderstanding about that."

There being no further comments, Mayor Faiella closed the Public Hearing.

Councilman Kelly said, "I don't have a problem with the compromise on this until January 1. They are small businesses, and it will be a hardship. The only caveat is if the Police Department opposes it. It has taken us over a year to get to this point. We've waited a long time to get it on the books."

Chief Reuther said, "As you know, we took the lead in trying to get this ordinance passed. We brought it before Council well over a year ago. We worked with the county on a countywide ordinance. I recognize Mr. Levy's issue as far as the businesses. But the big issue is that we have jewelry that is going. With the 15 day period it is not enough time. It is correct that we get the information on a daily basis. The county is now on LeadsOnLine, and we can access the information. A year ago they were on a different system and we didn't get the information daily. By the time we got it, the gold was gone. That was the catalyst for the 30 days. With this ordinance the businesses in Port St. Lucie will be reporting to us on LeadsOnLine. They won't have to report twice to the county and to us. I understand that the system is used in about 30 states. I would hesitate to go to January, but perhaps we can compromise. This will require a little bit of time to meet with all of the businesses so they understand the ordinance. I can tell you that residential burglaries are on the increase, especially during the day. Electronics and gold are going. Each day that we wait we lose the information. This helps us get stolen property back and make cases." Councilman Kelly asked what date Chief Reuther would recommend. Chief Reuther answered, "I suggest October 1. The ordinance would go into effect 10 days after tonight. That would give us September to take time to get with the businesses. I think 30 days would be reasonable. Sergeant Carmichael and Officer Paris have taken the lead in pushing this ordinance through at the county level and locally."

Vice Mayor Bartz stated, "We have been working on this for well over a year. Those businesses knew we were working on this. We can talk about reporting every day, but I am going to use the same scenario that you have all heard from me before. You go on vacation for two weeks. You leave the house. You get broken into the day after you leave. All of your jewelry is gone. They have sold it to the secondhand shop. You get home from vacation 14 days later. You spend the day grocery shopping and getting laundry done. On the 15th or 16th day you go back to work. You go to put on your jewelry, and it's gone. At that point it is gone. There is no recovering. Chief

Reuther can tell you that they can look and say, 'That was yours.' But guess what. There is no recovering it. I don't know how it works with prosecution when you don't have the items or pictures. We are not trying to punish the secondhand gold dealers. We are only bringing them into line with the pawnshops that are doing this presently. We are only making it a fair playing field. We have pushed this hard. I think we need to go forward."

Mayor Faiella said, "I agree with the ordinance. It's just that I have received calls from numerous pawnbrokers and shops. They want to have time to get money together." Vice Mayor Bartz noted, "Actually, the pawnbrokers I have heard from have all said to me that this will even the playing field. This doesn't change anything for the pawnbrokers." Councilwoman Martin stated, "I agree with Vice Mayor Bartz. This has been worked on for some time. It is time to put it into effect. I'm not in favor of having the ordinance wait any longer. Let's get it done." Chief Reuther said, "The reason I brought up the 30 days was for discussion, if you thought that was reasonable. The bottom line is that we need to get this done. As Vice Mayor Bartz mentioned, we have worked on this for well over a year." Vice Mayor Bartz interjected, "Again, it has not been done quietly. This has been out in public. This discussion came up when we did the first reading. We said we wanted to go forward and get this done." Chief Reuther advised, "We are prepared to go forward if the ordinance is adopted tonight. As you mentioned, a lot of the businesses are aware of this. It's been worked on for over a year. It won't cause a problem for us as far as administration of the ordinance."

Councilwoman Berger said, "I just heard from one gentleman. The information was that it was creating a hardship on that person's business and maybe some smaller ones. I know we have been working on this for a year. Have these members of the business community participated in these public discussions?" Chief Reuther answered, "I know that Mr. Levy appeared before the County Commission. I'm not sure if any of the Commissioners have heard from anyone else. It's been out there. When the county passed it, that was in the newspaper. Other than Mr. Levy speaking with me, I haven't heard from any dealers." Councilwoman Berger said, "I'm just trying to make sure that as we worked on this, we were fair enough to give the information out and do our due diligence." Chief Reuther added, "It's been out there for over a year. It has been in the newspaper. The county had public hearings. I'm not sure what else we can do. We will meet with each business. I spoke to Sergeant Carmichael today about having a liaison in the department, so they can contact one person if they have an issue or question about the ordinance or its administration. We have everything in place for the ordinance to go."

Councilman Kelly said, "It's a great ordinance, and I think we need it. I just wanted the Chief's recommendation. I would have gone with the 30 days, but I don't think there is a consensus to do

that. I know it's been on the radar for a year, but until the County Commission or City Council passes something, many things are on the radar. Until something passes, you don't know that it's actually going to happen. I will go along with what the Council wants to do." Mayor Faiella said, "I just want to be fair for the businesses. The holidays are coming up. People will be hurting. I have no qualms about the ordinance; we need it." Councilwoman Martin asked, "What about the people who get robbed and lose their jewelry?" Mayor Faiella replied that that is the flip side of the coin. Vice Mayor Bartz said, "I'm not looking for a debate on this, but this is the time of year when people rob, and things are disappearing before anybody has a chance to know it's gone. The pawnshops have been doing this. They are asking us to put the gold shops on the same table. They have to hold the gold. Frankly, they are making more money than ever because gold is so high." Mayor Faiella asked, "Can we split the four months that is left?" Councilwoman Berger said, "Let's consider a midpoint. What are your thoughts on allowing a start date of mid-September? Say September 12. That gives three to four weeks of lead time for them to save money. The reality is that as we go into the holiday season, that is when we have the biggest problem. That's why the Police Department has asked to do this now, before we are being reactive. They are trying to be pro-active. I get that the county is doing something different, but this is what we're doing in the City. We appreciate you coming forward, so I hope you would appreciate a compromise."

MR. LEVY said, "I spoke with some peers who assumed that the ordinance was the same as the county ordinance. The reason it was chosen to be done by Christmastime is because business is better then and they have a better chance to prepare. Also, this was pushed by pawnbrokers so that they would be on an equal playing field. I don't disagree with that. I have a jewelry store. There are gold mills, pawnshops, and jewelry stores. To put the burden on jewelry stores is unreasonable. January 1 is a reasonable amount of time. Just enforce the daily reporting. Some stores don't do daily reports. Yes; people go on vacation. You could make it 60 or 90 days. Where does it stop?" Vice Mayor Bartz stated, "First of all, he has a jewelry store. He sells gold as a secondary part of the business. I don't have an issue with that. We're not affecting his jewelry store. The idea of saying that it might go to 60 or 90 days. . . . I think we're going as far as we have determined with this ordinance. I'd like to **move** to approve Ordinance 11-63." Councilwoman Martin **seconded** the motion. Councilman Kelly asked, "As is with the ten day time?" Vice Mayor Bartz replied in the affirmative. The Deputy Clerk Supervisor restated the motion as follows: for approval of Ordinance 11-63. The **motion passed unanimously** by roll call vote.

j) **ORDINANCE 11-64**, PROVIDING FOR THE AMENDMENT OF SECTION 96.64, PORT ST. LUCIE CITY CODE; PERTAINING TO HUNTING AND