

Section

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Cross-reference:

Occupational License Tax, see Ch. 112

§ 118.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ITINERANT MOTOR VEHICLE DEALERS." Those persons engaged in the sale of either new or used motor vehicles for only a specified period of time at a temporary location.

"MOTOR VEHICLE DEALER." Any person engaged in the business of selling, offering to sell, soliciting or advertising the same or new or used motor vehicles or possessing motor vehicles for the purpose of resale either on his own account or on behalf of another either as his primary business or incidental thereto. "MOTOR VEHICLE DEALER" does not include the following:

(1) Receivers, trustees, administrators, executors, personal representatives, guardians or other person appointed by or acting under the judgment or order of any court and any bank, trust company or lending institution that is subject to state or federal regulation with regard to its disposition of repossessed motor vehicles;

(2) Public officers while performing their social duties; or

(3) Employees of person enumerated in divisions (1) and (2) of this subsection when engaged in the specific performance of their duties as employees.

"MOTOR VEHICLE LEASING DEALER." Any person engaged in the business of regularly making available, offering to make available or arranging for another person to use a motor vehicle pursuant to a bailment, lease or their contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers.

"MOTOR VEHICLE SALESPERSON." Any person who is employed as a salesperson by a motor vehicle dealer to sell motor vehicles or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

"MOTOR VEHICLES." Every vehicle intended primarily for use and operation on the public highways that is self-propelled, but shall not include farm tractors and other machines and tools used in the production, harvesting and care of farm products.

"NEW MOTOR VEHICLE DEALERS." A vehicle dealer who holds a valid sales and service agreement, franchise or contract granted by the manufacturer, distributor or wholesaler for the sale of the manufacturer's new motor vehicles.

"NEW MOTOR VEHICLE DEALERSHIP FACILITY." An established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing and servicing motor vehicles.

"PERMANENT FOUNDATION." Footers, foundation walls or a monolithic reinforced four-inch concrete mat and footer constructed of appropriately-reinforced poured concrete and/or mortared-in-place masonry units which are of sufficient structural integrity to withstand all imposed loads, uplift and lateral forces.

"PERMANENT STRUCTURE." Any combination of materials whether portable or fixed which comprises a structure or non-mined underground area affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed whenever used herein as if followed by the words "or part or parts thereof, and all equipment therein" unless the context clearly requires a different meaning. "Building" shall not mean manufactured housing or metal storage buildings.

"PERSON." A natural person, partnership, firm, corporation, association, trust estate or other legal entity.

"SALE." The issuance, transfer, agreement for transfer, exchange, pledge, mortgage in any form whether by transfer in trust or otherwise of any motor vehicle or interest in it or of any franchise related to it as well as any option, subscription, other contract or solicitation looking to a sale or offer to attempt to sell in any form whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto with or as a bonus on account of the sale of anything shall be deemed a sale of the motor vehicle or franchise.

"USED MOTOR VEHICLE DEALER." Any person engaged in the business of selling at retail, displaying, offering for sale or dealing in used motor vehicles, but shall not mean any person engaged in the business of dismantling, salvaging or rebuilding motor vehicles by means of using used parts or any public officer performing his official duties. (Ord. 32:2002, passed 12-9-02)

§ 118.02 LOT AND STRUCTURE REQUIREMENTS.

(A) All lots in which the sale of vehicles by a motor vehicle dealer, motor vehicle leasing dealer or itinerant motor vehicle dealer will take place must contain at least 2,000 square feet in area.

(B) There must be a minimum of five parking spaces for customers plus one space per each employee per shift.

(C) The lot shall have a hard, impermeable, dust-free surface consisting of asphalt or concrete.

(D) The motor vehicle dealer, motor vehicle leasing dealer or itinerant motor vehicle dealer shall have an office on or adjacent to the premises. Except for an itinerant motor vehicle dealer, said office shall be a permanent business or commercial structure and shall not serve as a residential structure.

(1) The office structure shall have a minimum of 100 square feet of office space.

(2) The office shall have a working telephone.

(3) The office shall have electric service and, upon request, provide proof of inspection by a certified electrical inspector.

(4) The office shall be on a permanent foundation.

(5) Itinerant motor vehicle dealers shall be permitted to use a temporary structure as defined in Chapter 154 of the City Code of Ordinances. A temporary structure permit must be obtained in accordance with Chapter 154. The temporary structure may not remain for more than 14 days.

(Ord. 32:2002, passed 12-9-02)

§ 118.03 OCCUPATIONAL LICENSE.

(A) Every motor vehicle dealer and motor leasing vehicle dealer and their independent contractors must obtain a city occupational license in accordance with Chapter 112 of the City Code of Ordinances from the city.

(B) Every itinerant motor vehicle dealer and their independent contractors must obtain a city occupational license in accordance with Chapter 112 of the City Code of Ordinances from the city. The fees for said licenses shall be:

(1) Itinerant motor vehicle dealer - \$100 per event.

(2) Itinerant motor vehicle independent contractor/salesperson - \$50 per event.

(C) Said fees shall be credited in full against the annual occupational license tag in accordance with Chapter 112 of the City Code of Ordinances.

(Ord. 32:2002, passed 12-9-02)

§ 118.04 ADVERTISING.

(A) All signs must comply with the city's sign ordinance.

(B) Each motor vehicle dealer, motor vehicle leasing dealer or itinerant motor vehicle dealer must have a sign as set forth by the Kentucky Motor Vehicle Commission.

(C) One sign per street frontage with a maximum of two signs per lot shall be permitted.

(D) Signs shall not be misleading.
(Ord. 32:2002, passed 12-9-02)

§ 118.05 GENERAL REQUIREMENTS.

(A) All motor vehicle dealers, motor leasing vehicle dealers and itinerant motor vehicle dealers must locate their businesses in a business or commercial zone.

(B) All motor vehicle dealers, motor leasing vehicle dealers and itinerant motor vehicle dealers must maintain and provide proof of general liability insurance in the amounts of \$100,000 per person/\$300,000 per occurrence/\$50,000 property to the Building Inspector upon application for a building permit or temporary building permit.

(C) All repair activities other than the routine cleaning, washing, waxing, changing of tires and batteries or other incidental activities shall be conducted within a permanent structure which completely encloses and screens the repair activities from the public.

(D) All motor vehicle dealers, motor vehicle leasing dealers and itinerant motor vehicle dealers and their employees and independent contracts shall be licensed as sales persons as required by KRS Chapter 190 and the regulations of the Kentucky Motor Vehicle Commission.

(E) All motor vehicle dealers, motor vehicle leasing dealers and itinerant motor vehicle dealers not owning the lot upon which the sales are being conducted must provide a signed and notarized letter of permission from the real property owner giving said dealer permission to conduct said sales or a copy of the current lease agreement between the dealer and real property owner.

(F) All motor vehicle dealers, motor vehicle leasing dealers and itinerant motor vehicle dealers must be in compliance with KRS Chapter 190 and the regulations of the Kentucky Motor Vehicle Commission and shall provide proof of compliance upon request.

(G) The sale and display lot of any motor vehicle dealer, motor vehicle leasing dealer or itinerant motor vehicle dealer shall not encroach upon the premises of another business or its required parking.
(Ord. 32:2002, passed 12-9-02)

§ 118.99 PENALTY.

(A) Any person found to be in violation of this chapter may be issued a notice of violation by a Code Enforcement Officer allowing the offender a specified time to remedy the violation without a fine. If the violation is not remedied, the offender shall be issued a citation by a Code Enforcement Officer. If the Code Enforcement Officer believes that the violation presents a serious threat to the public health, safety and welfare or if in the absence of immediate action the effects of the violation would be irreparable or irreversible or the violation

is a repeated violation, the Code Enforcement Officer may issue a citation without a notice of violation. If the citation is not contested by the offender, the following penalties shall apply; however the Code Enforcement Board may waive all or any portion of said penalty if, in its discretion, the Code Enforcement Board determines that such waiver will promote compliance with this chapter:

- (1) First Offense: \$100 plus compliance
- (2) Second Offense: \$125 plus compliance
- (3) Third Offense: \$150 plus compliance

(B) If the citation is contested and a hearing before the Code Enforcement Board is required, the following maximum penalties may be imposed at the discretion of the Code Enforcement Board:

- (1) First Offense: \$200 plus compliance
 - (2) Second Offense: \$250 plus compliance
 - (3) Third Offense: \$300 plus compliance
- (Ord. 32:2002, passed 12-9-02)