

## **11.20 USED MOTOR VEHICLE DEALERS**

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### **11.20.010 Purpose**

The purpose of this chapter is to establish licensing and operational standards for used motor vehicle dealers within the City in order to promote consumer protection, prevent fraudulent and deceptive practices, and ensure compliance with applicable state and local laws.

### **11.20.020 Definitions**

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates otherwise.

**MOTOR VEHICLE.** Any vehicle propelled by power other than muscular power that is used for transportation on public roadways, including automobiles, trucks, motorcycles, and similar vehicles, but excluding vehicles moved solely by human power or used primarily for off-road recreational or lawn and garden purposes.

**USED MOTOR VEHICLE DEALER.** Any person whose principal business is buying, selling, exchanging, displaying or offering for sale used motor vehicles.

### **11.20.030 License Required**

- A. No person shall engage in the business of a used motor vehicle dealer within the city without first obtaining a license issued by the city.
- B. A separate license shall be required for each place of business.
- C. A license issued under this chapter is not transferable.
- D. All licensees must obtain and maintain any license required by the State of Minnesota for motor vehicle dealers. Proof of such licensure shall be provided prior to issuance or renewal of a City license.

### **11.20.040 License Application**

- A. Application for a license shall be made on a form provided by the city and shall be signed under oath.
- B. The application shall include:
  - 1. The name and address of the applicant and all persons with a controlling interest in the business;
  - 2. The name and address of the business;
  - 3. The location of the proposed place of business;
  - 4. The name of the manager or person in control of the premises;
  - 5. A description of the business activities;
  - 6. Disclosure of any prior license denial, suspension, or revocation related to motor vehicle sales; and

7. Such other information as the City may reasonably require.
- C. The application may include disclosure of criminal history limited to offenses directly related to the licensed activity, consistent with Minnesota Statutes, Chapter 364.

#### **11.20.050 License Standards**

No license shall be issued or renewed under this chapter if the City Council determines that any of the following conditions exist:

- A. The proposed use does not comply with Chapter 16 (Zoning) or any other applicable land use regulation.
- B. The applicant has made a materially false statement or omission in the application or in any supporting documentation.
- C. The applicant, or any person in control of the licensed business, has been convicted of an offense directly related to the business of buying, selling, or financing motor vehicles, including but not limited to theft, receiving stolen property, fraud, false representation, deceptive trade practices, forgery, financial transaction card fraud, title fraud, or odometer fraud, and has not demonstrated sufficient rehabilitation and present fitness to operate the business, consistent with Minnesota Statutes, Chapter 364.
- D. Prior license conduct. The applicant, or any person in control of the business:
  1. Has had a motor vehicle dealer license or similar business license suspended or revoked by any governmental entity within the past five (5) years; or
  2. Has demonstrated a pattern of noncompliance with applicable laws or ordinances governing motor vehicle sales.
- E. The applicant has failed to obtain or maintain any license required by the State of Minnesota for motor vehicle dealers.
- F. The applicant has failed to provide sufficient and verifiable information to allow the City to conduct a background investigation of the applicant or any person in control of the business.
- G. The applicant has failed to identify all persons with a controlling interest in the business or the individual responsible for day-to-day operations of the licensed premises.
- H. The applicant has outstanding and unresolved violations of City ordinances or has failed to pay fees, fines, or other charges lawfully owed to the City related to business operations.
- I. The proposed operation of the business, based on the application and supporting information, would pose a significant risk to the public health, safety, or welfare.
- J. The applicant does not maintain, or propose to maintain, an established place of business as required by applicable law.
- K. Separation requirement. The proposed location of the licensed premises is within five hundred (500) feet of another licensed used motor vehicle dealer, auto sales dealership, or motor vehicle leasing or rental facility, measured in a straight line from property line to property line.

#### **11.20.060 License Term; Fee**

- A. License fees shall be established from time to time by resolution of the City Council.
- B. Licenses shall be issued for a period of one year and shall expire on December 31 unless sooner suspended or revoked.

#### **11.20.070 License Action**

- A. The City Council may approve, deny, suspend, or revoke a license under this chapter.
- B. Grounds for suspension or revocation include:
  1. Violation of this chapter or applicable law;

2. Revocation or suspension of a motor vehicle dealer license by the State of Minnesota;
  3. Material misstatement or misrepresentation in an application; or
  4. Failure to maintain an established place of business.
- C. Prior to suspension or revocation, the licensee shall be provided notice and an opportunity for a hearing.

### **11.20.080 Storage**

- A. No licensee shall use any public street or right-of-way for the storage of motor vehicles offered for sale.
- B. All motor vehicles stored or displayed for sale shall be located on an improved surface approved pursuant to SLPC 16, and shall comply with all applicable zoning, screening, and site design requirements.

### **11.20.090 Violations**

Any person who violates any provision of this chapter shall be guilty of a misdemeanor unless otherwise provided by law. Administrative penalties may also be imposed pursuant to SLPC 11.20.90.

### **11.20.100 Administrative Penalties**

- A. Administrative penalties authorized. In addition to and independent from any criminal enforcement, the City Council may impose administrative penalties for violations of this chapter.
- B. Schedule of penalties. The following administrative penalties are presumed for violations of this chapter:
  1. First violation: a civil fine of \$500.00;
  2. Second violation within 12 months of a prior violation: a civil fine of \$750.00 and suspension of the license for a period of ten (10) days;
  3. Third violation within 24 months of two prior violations: a civil fine of \$1,000.00 and suspension of the license for a period of twenty (20) days;
  4. Fourth violation within 36 months of three prior violations: revocation of the license.
- C. Adjustment of penalties. The penalties set forth in this section are presumed sanctions. The City Council may modify the amount of any fine or the duration of any suspension based on the severity of the violation, the risk to the public, or the licensee's history of compliance.
- D. Hearing required. Before imposing a suspension or revocation under this section, the City Council shall provide the licensee with notice of the proposed action and an opportunity for a hearing. The notice shall 1) be provided at least ten (10) days prior to the hearing; 2) state the time, date and location of the hearing; 3) identify the proposed action; and 4) state the grounds for the proposed action with reasonable specificity. Notice shall be deemed sufficient if sent to the address provided in the application, personally delivered or provided by other method reasonably calculated to provide actual notice.
- E. Continuing violations. Each day a violation of this chapter continues shall constitute a separate offense for purposes of administrative enforcement.