

ORDINANCE NO. 13-18

AN ORDINANCE TO THE CITY OF SOMERSET, KENTUCKY, *AMENDING ORDINANCE NO. 05-01*, RELATING TO KRS 190.030 WHICH ALLOWS A VEHICLE LICENSEE, AS DEFINED IN KRS 190.030, TO OBTAIN A TEMPORARY SALE AND/OR DISPLAY OFF PREMISE LICENSE/PERMIT FROM THE COMMONWEALTH OF KENTUCKY PURSUANT TO KRS CHAPTER 190, AND ALL OTHER APPLICABLE LAW;

WHEREAS, the City approved an Ordinance permitting a local motor vehicle dealer holding a state issued license, as well as a local City Business License, to hold one (1) off premise display and/or sale per calendar year within the city limits of the City of Somerset, specifically set forth in Ordinance No. 05-01; and

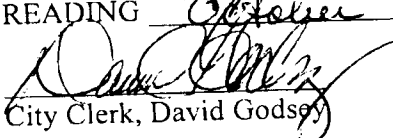
WHEREAS, the City of Somerset has determined that KRS 190.030 allows for the City to permit any licensee as defined in said statute to hold one (1) off premise sale and/or display per calendar year; and

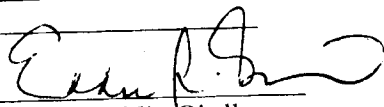
WHEREAS, the City's previous Ordinance only permitted said off premise sales/displays for "new" motor vehicles, and therefore excluded all other types of motor vehicles as set forth and defined in KRS 190.030;

THEREFORE, be it ordained by the Common Council of the City of Somerset that Ordinance 05-01 is hereby amended as follows:

- (A) Section 1 of Ordinance 05-01 shall now read: "Section 1. Each Licensee, as set forth and defined in KRS 190.030 (1), having a principal office located within the City limits of the City of Somerset, and upon obtaining the proper City business license and the proper state license and/or permit required under KRS Chapter 190 and all other applicable law, may hold one (1) off-premise sale and/or display event per calendar year."
- (B) If any part of this Ordinance Amendment is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this Ordinance Amendment, and any un-amended portions of the original Ordinance 05-01, shall continue in full force and effect.
- (C) Any Ordinance in conflict with this Ordinance Amendment, or any policies in conflict with the ones enacted herein are repealed in so far as the same are in conflict herewith.
- (D) This Ordinance Amendment shall be in full force and effect upon approval and publication according to law.

FIRST READING September 23, 2013
SECOND READING October 14, 2013

ATTEST: 
City Clerk, David Godsey

APPROVED: 
Mayor, Eddie Girdler

190.030 License requirement -- Application for license -- Time within which license to be granted or refused -- Fees -- Licenses to be displayed -- Temporary sale or display -- Bond -- Reports by motor vehicle dealer.

- (1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, nonprofit motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer, or a salesperson of motor vehicles shall not engage in business in this state at any location without a license issued for that location as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle salesperson, he shall secure a motor vehicle salesperson's license in addition to a license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.
- (2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.
- (5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.
- (6) The license fee for a calendar year, or part thereof, shall be as follows:
 - (a) For new motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof, plus one hundred dollars (\$100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch;
 - (b) For used motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof;
 - (c) For motor vehicle leasing dealers, one hundred dollars (\$100) for each office or branch or agent thereof;
 - (d) For restricted motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof;
 - (e) For motorcycle dealers, one hundred dollars (\$100) for each office, branch, or agent thereof;
 - (f) For motor vehicle manufacturers, one hundred dollars (\$100); and for each factory branch in this state, one hundred dollars (\$100);

- (g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers;
 - (h) For motor vehicle salespersons, twenty dollars (\$20), to be paid by the licensed dealer for every salesperson the dealer employs;
 - (i) For factory representatives, or distributor branch representatives, one hundred dollars (\$100);
 - (j) For automotive mobility dealers, one hundred dollars (\$100);
 - (k) For nonprofit motor vehicle dealers, one hundred dollars (\$100); and
 - (l) For nonprofit motor vehicle dealer salespersons, a license fee shall not be imposed.
- (7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed, the licensor shall endorse the change of location on the license. A licensee shall not be charged a fee for changing locations. A change of location shall require a new application. A licensee may conduct a temporary sale or display if the temporary sale or display is permitted under an enabling ordinance enacted by the city, county, urban-county, or consolidated local government within whose boundaries the temporary sale or display is to be conducted. A temporary sale or display shall be advertised as temporary in nature and shall consist of a representative sampling of the inventory of each participating licensee. The provisions of this subsection shall not apply to a nonprofit motor vehicle dealer.
- (8) Every salesperson, factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the salesperson shall immediately mail his license to the licensor who shall endorse the change on the license without charge.
- (9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars (\$15,000), conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.
- (10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.

- (11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 43, sec. 3, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 125, sec. 3, effective June 26, 2007. -- Amended 2003 Ky. Acts ch. 13, sec. 1, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 216, sec. 1, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 186, sec. 2, effective July 15, 1994. Amended 1992 Ky. Acts ch. 452, sec. 2, effective July 14, 1992. -- Amended 1984 Ky. Acts ch. 357, sec. 3, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 373, sec. 3, effective July 15, 1982; and ch. 374, sec. 6, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 313, sec. 1, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(2). -- Amended 1966 Ky. Acts ch. 175, sec. 3. -- Created 1956 Ky. Acts ch. 161, sec. 3.